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ROYAL COMMISSION OF INQUIRY INTO CERTAIN  
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND  
RELATED MATTERS.

Hearing held  
8th floor  
180 Dundas Street West  
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange	Commissioner
P.S.A. Lamek, Q.C.	Counsel
E.A. Cronk	Associate Counsel
Thomas Millar	Administrator

Transcript of evidence  
for

10 May 1984

VOLUME 144

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14 Carlton Street, 7th Floor,  
Toronto, Ontario M5B 1J2

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN  
DEATHS AT THE HOSPITAL FOR SICK CHILDREN  
AND RELATED MATTERS.

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Hearing held on the 8th Floor,  
180 Dundas Street West, Toronto,  
Ontario, on Thursday, the 10th  
day of May, 1984.

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THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner  
THOMAS MILLAR - Administrator  
MURRAY R. ELLIOT - Registrar

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APPEARANCES:

13

P.S.A. LAMEK, Q.C. Commission Counsel

14

D. HUNT  
L. CECCHETTO ) Counsel for the Attorney  
General and Solicitor  
General of Ontario (Crown  
Attorneys and Coroner's  
Office.

15

I.J. ROLAND  
M. THOMSON  
R. BATTY ) Counsel for The Hospital  
for Sick Children

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D. YOUNG ) Counsel for The  
Metropolitan Toronto  
Police

20

W. N. ORTVED  
K. CHOWN ) Counsel for numerous  
Doctors at The Hospital  
for Sick Children

21

E. MCINTYRE ) Counsel for the Registered  
Nurses' Association of  
Ontario and 35 Registered  
nurses at The Hospital  
for Sick Children

22

D. BROWN ) Counsel for Susan Nelles -  
Nurse

23

24

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APPEARANCES Continued

2

P. RAE

Counsel for Phyllis  
Trayner - Nurse.

3

J. A. OLAH

Counsel for Sui Scott  
Nurse

4

S. LABOW

Counsel for Mr. & Mrs.  
Gosselin, Mr. & Mrs.  
Gionas, Mr. & Mrs. Inwood,  
Mr. & Mrs. Turner, Mr. &  
Mrs. Lutes, and Mr. & Mrs.  
Murphy (parents of deceased  
children)

5

F.J. SHANAHAN

Counsel for Mr. & Mrs.  
Dominic Lombardo (parents  
of deceased child Stephanie  
Lombardo); and Heather  
Dawson (mother of deceased  
child Amber Dawson)

6

W.W. TOBIAS

Counsel for Mr. & Mrs.  
Hines (parents of deceased  
child Jordan Hines)

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A/DM/LN

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----(Upon commencing at 10:35 a.m.)

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THE COMMISSIONER: I promised Ms. Rae that we would not discuss the matter brought up by Mr. Hunt in chambers, today, but I do want to find out where we stand on this one and I want to set a date for argument on Phase I today, if we can.

We won't do that until after we finish the evidence of Dr. Bunt. Is he here?

MR. HUNT: Yes, he is here.

Before Mr. Shanahan or my friends comment; Dr. Bunt referred to two certificates in his evidence the other day and I handed it out to everyone in advance of his evidence but I neglected to enter them as Exhibits. Perhaps I can do that now. One is a Warrant for Post Mortem Examination dated July 28th, 1980, signed by Dr. Bunt directing the post mortem examination to be made on the body of Amber Dawson. The second is a Medical Certificate of Death in relation to Amber Dawson and signed by Dr. Bunt and dated October 27th, 1980.

Perhaps we can have the Post Mortem Examination marked as the first one, and the Medical Certificate the next.

THE COMMISSIONER: Yes, 413 for the Warrant; and 414 for the Certificate.





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---Exhibit No: 413      Warrant for Post Mortem  
Examination dated July 28th

1980, signed by Dr. Bunt.

A2      4      ---Exhibit No. 414:      Medical Certificate of Death  
5      October 27th, 1980, signed by  
Dr. Bunt.

6      THE COMMISSIONER:      Yes.      Have you  
finished your examination, Mr. Hunt?

7      MR. HUNT:      Yes.

8      THE COMMISSIONER:      Mr. Lamek.

9      MR. LAMEK:      Mr. Commissioner, Mr.  
10      Shanahan has asked if he might go first as his client  
11      is obviously the most closely involved with this  
evidence and I have no objection to that.

12      THE COMMISSIONER:      Yes, all right.  
13      Mr. Shanahan.

14      DR. DONALD BUNT, RESUMED

15      CROSS-EXAMINATION BY MR. SHANAHAN:

16      Q.      Good morning Doctor, my name is  
17      Shanahan and as you probably know I act on behalf  
18      of Heather Dawson the mother of Amber Dawson.

19      Doctor, at the outset I think Mr.  
20      Hunt put to you really the parameters of this.      When  
21      you look back at it, and when you look back at the  
suggestion made by Mrs. Dawson with respect to the  
22      first account that she gave to you, you would agree  
23      really that the implications of her evidence if

24

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1  
2 accepted at face value are really quite devastating  
3 in terms of this Commission?  
A3

4 A. Yes.

5 Q. And would you agree too as well  
6 sir, that having had the opportunity to review her  
7 evidence as you advised us you did, that in fact it  
8 does come down on some crucial issues to each  
individual's recollection of those events?  
9

A. Yes.

10 Q. Would you agree, sir, that in  
11 trying to assess that, it struck me that there was  
12 a number of areas first of all that both you and Mrs.  
13 Dawson obviously agreed upon?  
14

A. Yes.

15 Q. I can outline them for you.  
16 You certainly agreed that you were contacted by her  
17 as early as the 28th, the very day on which the child  
had died?  
18

A. Yes.

19 Q. You both agreed on the time and  
the place of that first meeting?  
20

A. Yes.

21 Q. You both agreed that there was  
22 another subsequent telephone conversation some three  
23 to four days later when the preliminary autopsy  
24  
25





A4

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2 ~~recent~~'s were known?

3

A. Yes.

4

Q. You both agreed that there was  
a final contact, or final meeting sometime in November,  
at which time the full autopsy report itself was  
6 discussed and reviewed?

7

A. Yes.

8

Q. You both agreed that there was  
a final telephone call shortly after the arrest of  
9 ~~recent~~ files, between you and Mrs. Dawson?

10

A. Yes.

11

Q. In terms, sir, of the actual  
12 ~~recent~~ of these meetings you both agreed as well  
13 that on the first meeting two topics came up, however,  
14 they were resolved and what have you, that two  
15 topics came up and predominated. One was her concern  
16 about the pathologist who might do this autopsy.  
17 The second was in a broad sense a medication problem,  
18 or the issue of medication; would you agree that  
19 even in terms of the topics that came up at that  
20 first July 28th meeting you both agreed in that  
regard?

21

A. There were other issues.

22

Q. But in terms of those two coming

23

up --

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25





A5

A. Those two did, not primary concerns I don't believe.

Q. You wouldn't call Mrs. Dawson's concern about the Hospital and the pathologist and the Hospital that he might be in; and her concerns about the problems of medication, whether she went so far as to mention digoxin or not, we will not to deal with that at the moment

A. Yes, but there was another primary concern.

Q. What was that, sir.

A. The cause of death.

Q. The cause of death, I am sorry. You will agree then that those three topics as she set them out and you set out, you both agreed in that regard as well?

A. Yes.

Q. In fact, sir, as I look it over the only area where there was substantial disagreement really between you and Mrs. Dawson was really the area of the timing, or how the issue of the outside pathologist was resolved; and secondarily, whether in fact of terms of the medication discussion Mrs. Dawson went so far as to actually at that first meeting in July bring up about digoxin specifically?





A6  
A. Yes. When you pause you are looking for an answer from me I presume?

Q. Yes. As well as that, Doctor, suggest now in those areas that you disagree on [redacted] there are no notes made by any party?

A. Correct.

Q. And certainly you have indicated that you [redacted] had notes in which you outlined the [redacted] receiving your earlier telephone calls and [redacted] instructions, and you set out those times; but with [redacted] the contents and the subjects of what [redacted] at these meeting she didn't record [redacted] didn't record them either?

A. That's correct.

Q. So it would strike me here that it would really seem to be incumbent upon you [redacted] your role there as an arm of the Coroner's office placing the value that you said to Mr. Hunt that [redacted] would upon a complaint, if you like, being received from a relative and that relative enjoying that special position of being the child's mother. It would seem to me, sir, that it would be at least as important to have notes not just recording the times of earlier telephone conversations, but notes setting out two, as I saw it, or three as





A7

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25  
topics of discussion that were reviewed there.

Would it not have been, in retrospect, sir, valuable to this Commission and really a proper practice for you to have made notes of that discussion with Mrs. Dawson?

A. That is a difficult question to answer. In retrospect, yes.

Q. In terms of you and Mrs. Dawson remembering this event, sir, I think you advised the Dawson the total amount of investigations over the 22 years that you have been involved with was something in the area of 8400?

A. That's correct.

Q. It worked out to somewhere around 400 a year, and it really works out to something even greater than 1 a day, an awful lot of investigations am I right?

A. Yes.

Q. Looking back and this lady coming in to you on July 28th, as we know, sir, perhaps the third baby into this series of deaths, there was nothing in the air at that time that would in any suggest there was something going on at the Hospital for Sick Children at all?





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A. Yes.

THE COMMISSIONER: Yes, there is a problem in answering that question. Do you mean there was nothing in the air?

THE WITNESS: I am agreeing with Counsel that there was nothing in the air, yes.

Q. I suggest to you, sir, that there was nothing as well in this discussion with Mrs. Dawson that distinguishes it perhaps from the many other discussions you had with people, doctors and individuals in the Coroner's office and perhaps family members that come to you when in fact you are about the embark upon an investigation?

A. That's true.

Q. Nothing in particular fixes it in your mind but you will agree with me that from Mrs. Dawson's point of view arriving at your office on the very day of her child's death and discussing with you the death of her only child, you would agree that would have a certain value in crystallizing or fixing her recollection of events?

A. I think it might do other things too.

Q. But you will agree for her it was a once and once only proposition visiting the





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Bunt, cr. ex.  
(Shanahan)

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Coroner's office and reviewing that day the circumstances surrounding Amber Dawson's death?

A9

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A. I would agree with that.

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Q. Sir, you indicated that there were certain features as you look back however that really did or should have heightened your concern here; one was the unusual manner of the referral itself, rather than the clerk, it appeared to me, simply assigning the case at random that there had been some input from a more senior official to have the case specifically assigned to you?

I'm not quite sure what you are getting at there. If you mean it was important to me, yes.

Q. Mr. Hunt asked you at page 2879 of that days evidence:

" Q. So at the outset was there any thing unusual about the manner in which this request came to you that you were aware of and mindful of at that point?

A. Yes. It had come, although through the clerk, from a senior member of the Coroner's Office. I understood that I had been asked specifically to accept the case and that put a serious complexion on it, somewhat more serious than I would possibly expect





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initially with an ordinary case that  
would come through the Coroners Office  
from a Clerk".

3

That's correct.

4

You accept that?

5

Yes.

6

Q. All right. Really then there  
were two features there. There was not only  
the unusual manner that was referred to but in addition  
you said that the input of the relative, to the  
extent that had occurred here, the mother, the mother  
being as you realized the impetus for the coroner  
being involved and the mother attending there is your  
office to instruct you that day, you said that it  
was unusual, it was not common?

7

A. That's correct.

8

Q. All right. And the net

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effect of those two aspects was that you said that  
it in fact gave the whole thing a serious complexion  
to you?

10

A. It did.

11

Q. All right. You said Doctor

12

that Mrs. Dawson reviewed the background of Amber  
Dawson's life, expressed to you that it was an unexpected  
death from her point of view that occurred early in

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the morning and that she felt her child should not have died?

3. Yes.

4.

5. All right. I would suggest to you as well Doctor that it became apparent in reviewing the course of Amber's life that this lady in fact had a considerable familiarity with digoxin, the drug itself, and its use?

6.

7.

8. No, I don't believe that was an issue at all, or a point of discussion.

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You would agree sir that really one would hardly review the course of Amber's life, her stays in the Hospital, her surgery, her course of treatment without the mother having at least having mentioned in passing to you that the child was on digoxin, the chief drug that she was on?

A. I don't believe that at all.

Q. All right. You would agree though that in reading her evidence the other day that Mrs. Dawson was really quite consistent in what she expressed to this Commission, that in fact she had given the doses of digoxin twice per day for all of the child's life?

A. I don't believe that was present to me at the time when Mrs. Dawson and I spoke





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2 at all.

3 Q. But you will agree that is  
4 the evidence that she gave here the other day?

5 MR. HUNT: If we are going to get into  
6 Mrs. Dawson's evidence I think we should have the  
7 passages referred to.

8 MR. SHANAHAN: I thought he said he  
9 read it?

10 THE WITNESS: I did read it, Mr.  
11 Shanahan, but I was not here to hear it.

12 MR. HUNT: He did read it, but this  
13 is now Thursday morning.

14 MR. SHANAHAN: Q: And did you read,  
15 sir, where she said that on December 25th, Christmas  
16 day of 1979, that she had accidentally given an  
17 overdose of digoxin to her child which caused the  
18 child to go into heart failure and be hospitalized?

19 A. If it is in the record, I  
20 read it.

21 Q. You would agree sir that for  
22 a mother that certainly would be a distressing enough  
23 event that she would in her own mind be acutely aware  
24 of the lethal nature of the drug digoxin?

25 A. I realized that at this time.

Q. Yes.





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Bunt, cr.ex.  
(Shanahan)

3074

B-5

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A. Now, yes.

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Q. Yes.

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In the context that you are  
telling it

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All right. But you would  
agree there sir that if she as an individual, as a  
lay person, had in fact had that incident occur to her  
it certainly would serve to fix in her mind the  
dangerous nature of the drug that was involved in her  
child's treatment?

You are asking my opinion

about what Mrs. Dawson thought and I'm sorry, I cannot  
respond to that question.

Q. Mrs. Dawson brings up to  
you, sir, the aspect of an outside pathologist. In  
fact, you say that you enter into a discussion with  
her, and I take it advised her of your feeling that  
in fact the best pathologist available in terms of  
a pediatric autopsy would be available at the Sick  
Children's Hospital?

A. That is correct.

Q. All right. Really, Sir, in  
fairness that issue in itself would not raise your  
suspicions. It would seem to me sir that it would  
be the reason for that request, the reason behind that





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2 request more than anything that would have raised  
3 your suspicions, the fact that a mother was asking  
4 you to have someone outside the Hospital do this  
5 autopsy, it was suggested to you that in fact the  
6 mother's concerns were that she felt that something  
7 that happened internally in the Hospital was  
8 really the cause of her child's death?

9

Yes, I would agree with that.

10

All right. And she was  
11 certainly not so overwhelmed by grief that she  
12 wouldn't see the logic, sir, if we accept your version  
13 of events, that she could see the logic of perhaps  
14 having a pathologist at the Sick Children's Hospital  
15 do it so she could get the best information?

16

Yes.

17

Q. And then, sir, she brings  
18 up the topic, as you put it --

19

MR. HUNT: Before my friend moves on, could  
20 I just point something out. My friend has lead a series  
21 of questions to the Doctor suggesting that in the  
22 discussion with him Mrs. Dawson could hardly have had  
23 a discussion about the history of Amber Dawson without  
24 referring to the fact that she was well acquainted  
25 with digoxin and had administered it to the baby and  
knew how lethal it was. Now, her own evidence at





1

2 Page 2502 in Volume 141 --

3 THE COMMISSIONER: Yes, just a second.  
4 Go ahead.5 MR. HUNT: Well, it is only about  
6 four lines own evidence at that page, 2502,  
7 line 12 or8 THE COMMISSIONER: Could you wait  
9 just a second I want to look up my own notes on it.10 MR. HUNT: At that point, Mr. Commissioner  
11 she said, I is in quotes:12 A. 'I don't want to find out my  
13 child died of an overdose of digoxin.'  
14 Q. And would you have mentioned it  
15 on more than one occasion in that  
16 meeting?17 A. No, I told him of my suspicion.  
18 I did not mention the word, 'digoxin'  
19 more than that one time."20 THE COMMISSIONER: But she said it at  
21 a later point of course I think that she distinctly  
22 remembered having used that.23 MR. HUNT: She distinctly remembered  
24 this phrase, "I don't want to find out my child  
25 died of an overdose of digoxin." That is her  
recollection.





1

2 THE COMMISSIONER: Yes.

3

MR. HUNT: She goes on to say, "I did  
not mention the word, 'digoxin' more than that one  
time."

5

Now, my friend has lead a serious  
of questions here with the suggestion that this  
lady ~~could possibly~~ have had a discussion with him  
about the child's history without some complete  
discussion of the child's history insofar as digoxin  
is concerned. Her own evidence suggests that even  
she doesn't recall that.

11

Now, this is why I object to the putting  
of recollections of the witnesses to this Doctor.  
If it is ~~possible~~ to be done again I would suggest we  
have the ~~transcript~~ used and the portions my friend  
is concerned with read, because this is a very  
different ~~recollection~~ than the witness has of what  
the conversation involved and the one my friend is  
suggesting. I don't think that is appropriate.

17

THE COMMISSIONER: Well, I don't know,  
Mr. Shanahan.

20

MR. SHANAHAN: Q: Well, Doctor, if  
you didn't hear it then, when you subsequently went  
to the Hospital and looked over Amber Dawson's chart  
you certainly had all the records before you that we

24

25





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TORONTO, ONTARIO (Shanahan)

3078

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2 now have before this Commission.

3 A. Yes, I did.

4 Q. All right.

5 A. Excuse me, I had Amber  
6 Dawson's chart, possibly not all the records that  
7 you have. I don't know what you have before the  
Commission.

8 Q. All right.

9 A. I had Amber Dawson's chart.

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Q. Did you know then from that chart whether you gained it from the mother or not? Did you know from that chart that in fact Amber Dawson had a number of operations and stays at the Hospital and, in fact, she had largely been on digoxin all her life?

A. Yes.

Q. All right. You knew by inference, in fact she was under digoxin when she was at home, by inference, the mother was giving her that digoxin?

A. Yes.

Q. All right.

A. Or someone was giving it to her, yes.

Q. But she was at home?

A. She was at home, yes.

Q. And *ex post facto* then you must have learned very quickly later that day, if we accept your version that Mrs. Dawson didn't mention it in the meeting, you must have, and if you were leaving that meeting with this aspect, well, let me go over to the Hospital here and see what medication this child might have been on, you very quickly would have learned that she had been on





C. 2

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2 digoxin for some months?

3 A. Correct.

4 Q. In fact, it had been the  
5 primary drug, the primary heart drug that she had  
6 been on most of her life?

7 A. That's right.

8 Q. All right. So whether she  
9 said it or not to you it really very quickly became  
10 apparent some hours later that very day?

11 A. Yes.

12 Q. All right. You said that one  
13 of your concerns about the logic that you put to her  
14 about using a pathologist from The Sick Children's  
15 Hospital was, one, it was the best available infor-  
16 mation to her and you said, as well, at page 2885  
17 of that transcript, that it was done because it was  
18 an important thing to Mrs. Dawson?

19 A. Yes.

20 Q. All right. In fact, there were  
21 two important things to look and to check about a  
22 pathologist who might be used and, secondarily, to  
23 check the aspect, as you have put it, of incorrect  
24 medication.

25 A. And the third point which --

Q. I am sorry, I am not trying to --





C.3

1

2 A. That you do not add is to  
3 determine a cause of death. That is why I wanted  
4 the best pathologist available.

5

6 Q. All right. And to determine  
7 a cause of death. Certainly, though, sir, when you  
8 say it was an important thing to Mrs. Dawson about  
9 the pathologist, both you and she at least agree,  
10 under the general heading, that the issue of  
11 medication, incorrect medication --

10

11 MR. HUNT: I'm sorry, the words the  
12 doctor used was "wrong medicine" was the phrase  
13 raised --

12

13 THE COMMISSIONER: It sounds somewhat  
14 the same to me.

14

15 MR. HUNT: It may be the same in  
16 one sense, but wrong medicine may not connote to the  
17 doctor any suggestion of the wrong dose of the  
18 property of prescribed medicine.

18

19 MR. SHANAHAN: I used the expression  
20 incorrect medication I thought. On page 2884, the  
21 doctor's answer to Mr. Hunt was, the question being:

21

22 "Were you able to say, or did she  
23 indicate to you any desire on her  
24 part that the investigation into the  
25 death of her baby be carried out with





C. 4

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"some ultimate benefit to other  
children in mind?

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"A. Yes, she did. She felt that she  
could not do anything for Amber  
actually at this time, but she felt  
that Amber should not have died and  
she expressed to me the wish to help  
other children, or to see that if  
her daughter had died as a result of  
incorrect medication....".

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(2)

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MR. HUNT: Would my friend go back to  
page 2883 where the doctor first raised what was said,  
to put that comment in the proper context. At line  
9 the question:

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"Q. Did she express to you any  
feelings that she herself and whether  
they were based on fact or not, as  
to the cause of death of the child?

"A. She expressed to me her concern  
that Amber may have received the wrong  
medicine."

And after that the doctor referred to any other  
way, and my submission is in the context of that.

MR. SHANAHAN: He says wrong medicine  
and on 2884:





C.5

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RD/tg

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"As a result of incorrect medication,  
wrong medication that that should not  
happen again."

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If you think I misquoted that, but those three  
"wrong medicine, incorrect medication, wrong  
medication", that was a general complaint there, was  
it?

8

THE COMMISSIONER: I suppose really,  
Doctor, it is not a question so much of what you said,  
but what you remember. If you can remember what  
did you say?

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THE WITNESS: I remember wrong  
medication as being the issue.

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MR. SHANAHAN: Q. All right. And,  
Sir, to get back to my point here it would seem  
to me that all three had, as you put them, because  
of death, the concern about the pathologist and  
the wrong medication were equally important and,  
Sir, just as important as you being able to convince  
her that a pathologist just inside the Sick  
Children's would be completely objective, it would  
be equally just as important that you, either  
personally or through him, also get the best  
available evidence with respect to the medication  
problem that she may have been addressing. That





C.6

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would be part of your function?

2

A. You used the term equal concern  
I believe.

3

Q. Yes.

4

A. I'm not certain that equal  
concern was the correct way of putting it. I was  
looking for a cause of death and I believe  
Mrs. Dawson was looking for a cause of death.

5

Q. All right, Sir. You will agree  
that the cause of death and medication were clearly  
in the conversation, to defy logic and say that she  
wasn't relating one to the other.

6

A. Yes.

7

Q. All right.

8

A. Wrong medication was one  
dimension of cause of death.

9

Q. Was one?

10

A. Dimension of cause of death.

11

Q. All right.

12

A. To be considered by me.

13

Q. She certainly wasn't telling  
you how to do your job, but one thing she was  
bringing up to you was to assist you was that she  
thought that wrong medication or wrong medicine  
was an issue here.

14

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16





C.7

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RD/tg

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A. One of the issues, yes.

3

Q. One of the issues. She passed  
that on to you?

4

A. Yes.

5

Q. As you say it was coming from  
mother?

6

A. Yes.

7

Q. Coming from a relative, it was  
unusual and it is something that you would have or  
should have given special heed to.

8

A. And did.

9

Q. And did. We will get to that.

10

As you say Doctor, as well as that you are familiar  
with how to implement the procedure to have that  
tested, because there is, in fact, on the Coroner's  
warrant a special area set aside for special  
examinations, to use the phraseology, where you could  
put in there instructions that you require.

11

A. Correct.

12

Q. In fact, you were familiar with  
it and I think you said to Mr. Hunt that you had  
done it and used it in the past. It would have been  
nothing for you to put in there, in fact, tests for  
drug A, B and C.

13

A. Yes.

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15





C.8

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RD/tg

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Q. All right. You said that one of your concerns was that there was a huge compendium of drugs, perhaps drugs running into the thousands and you didn't say this, but I gather that really in terms of efficiency or cost or whatever considerations, it really -- you needed a drug to focus in on.

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A. I needed something to focus on,

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Q. All right. Surely, Sir, it was incumbent upon you, if we accept your evidence that Mrs. Dawson was, in fact, naming specific medications, surely it was incumbent upon you in your role here as the Coroner acting on behalf of the Coroner's Office, that if there was any doubt in your mind that A you didn't know where to head or B the general field she was giving you was just too broad for you to do a screen on, surely it was incumbent upon you to put to Mrs. Dawson here: "Ma'am, you are really giving me an impossible task. Do you have anything in mind that you think your daughter may have got too much of or the wrong thing of."

A. This was before I had reviewed anything. This was before I had commenced an investigation, my discussion with Mrs. Dawson.





C. 9

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RD/tg

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Q. I appreciate that. What I am saying to you, Sir, is that she, having brought up that topic, she looking for cause of death and certainly talking about medication in relation to cause of death, you knowing from your experience 8400 cases that we can't do a drug screen on every drug they have in the Hospital for Sick Children, where is this lady coming from, surely it was incumbent upon you to address that issue right there with her if you were in any doubt.

A. If I was in any doubt of what?

Q. What drug she might be alluding to or if you thought your task was just simply impossible, as framed.

A. No, I don't think it was impossible as framed. I had a planned course of action which I followed.

Q. So you don't feel, in retrospect, Sir, that it would have been, given the limitations that you knew about screening, and the amount of drugs that were **there** at the Hospital for Sick Children, you might then in the course of that conversation, ask this lady who was talking about medication, ask her, what, in fact, she might have in mind.

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25





C.10

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RD/tg

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A. I don't believe the matter of the wrong medication was a long discussion item in my communications with Mrs. Dawson, prior to my attendance at Sick Childrens Hospital.

Q. You don't believe that wrong medication was -- sorry?

A. An issue of lengthy discussion with Mrs. Dawson prior to my attendance at Sick Childrens Hospital. I had a discussion with her of some 45 minutes and I don't think that wrong medication was a lengthy issue in that discussion or absorbed any length of time in that discussion.

Q. Well certainly ---

A. Either on her part or my part.

Q. Certainly if you didn't follow up on that comment or in whatever way it was broached about wrong medication, it certainly wouldn't have been very wrong. I am suggesting to you that you are so experienced of 22 years, 8400 investigations, that you would be so concerned by the fact that this relative was coming to you and the case was highlighted by the manner of referral, that a lady obviously suspicious, that she was asking for an outside Pathologist and she obviously had

24

25





C.11

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RD/tg

2

Something on her mind about the cause of death  
being wrong medication. I'm suggesting to you,  
excuse me, that indeed you would have asked  
this lady, and I am suggesting to you that she  
could have responded that Digoxin was a primary  
cause.

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D/DM/LN  
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A. There is a lot in that question  
and I cannot answer it yes or no, you will have to  
break the question down if you want me to answer it.

5

6

Q. If I want an answer I will have  
to break it short. I am suggesting to you --

7

8

9

10

A. No, you don't have to make it

break it down - with

and not give me please four or five

one question and expect me to give you

11 answer.

12

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Q. All right. Let me try again.

sting to you, sir, that this lady that  
concerned about cause of death, and that  
obviously had suggested to you that she  
thought strong medication might be involved?

A. That was one dimension of a

12 discussion.

13 Q. I accept that.

14 A. Which did not include -- which  
was not -- the issue of wrong medication did not take  
up much time in this discussion.

15 Q. So we are on common ground --

16 A. Mrs. Dawson was given as much  
time as she wished in her discussions with me. The  
major point of discussion was the cause of death,





1  
D2

2 the issue of where the autopsy would be done.

3 Q. The common ground is that it was,

4 your words, one dimension of the conversation.

5 A. The issue of wrong medication

6 part of the issue of cause of death; she

7 know how her child died.

8 Q. She was offering to you there

9 her opinion for what it was worth, that in

10 she thought, to accept your version of these

11 your recollection, that in fact she thought

12 the wrong medication?

13 A. That was one dimension of it, yes.

14 Q. So we are on common ground there

15 in respect of wrong medication a perhaps the

16 cause of death was raised.

17 A. We are on common ground about the

18 I don't believe we are on common ground

19 about the emphasis and the duration and the import

20 of the term "wrong medication".

21 Q. I certainly haven't put anything

22 about duration.

23 A. No, but you are emphasizing -

24 Q. Just let me ask the questions

25 here. You have certainly put that the input of a

relative, of a mother's concern was important. So





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D3

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2 I am just tying that into what you have said when  
3 the mother would say, in my feeling the cause  
4 ~~which~~ it could perhaps be the wrong medication, that  
5 ~~initially~~ as you put it, set off some bells in  
6 ~~the lady~~

7 A. Yes, I agree entirely with what  
8 ~~you~~ saying but I don't want to mislead the  
9 commission by suggesting that this was the major  
10 ~~subject~~ of discussion that Mrs. Dawson and I had  
11 ~~for~~ minutes, and it was one issue. I appreciate  
12 ~~you~~ appreciate Mr. Shanahan what you are  
13 ~~trying~~ accomplish here, but I don't want to mislead  
14 ~~the Commission~~ that this was the focus of our  
15 ~~discussion~~.

16 Q. And I don't want you to mislead  
17 ~~the Commission~~ either, sir. All I am saying sir  
18 ~~is~~ you say it wasn't made a major issue, and  
19 ~~that~~ is my next question to you. It would seem  
20 ~~to~~ into that longer question some minutes  
21 ago, that of 8400 investigations and with 22 years  
22 behind you, and given the manner it was referred to  
23 you and her specific concerns, that really it was  
24 incumbent upon you to make that a major issue and to  
25 say to this lady, what medication do you have in mind  
ma'am.





D4

1 A. Again you are looking for a

2 Q. I am. I am saying it was

3 upon you to ask that question.

4 A. You are expressing --

5 THE COMMISSIONER: No, I think

6 that statement is, do you agree?

7 A. I agree to some degree, but I

8 it is difficult to answer that degree with a yes

9 Q. I won't labour it too much longer

10 I certainly had way more experience than

11 and secondarily, you knew uniquely

12 problems with drug screening when you didn't have

13 a particular focus.

14 A. That's correct.

15 Q. So as between the two parties

16 and the footing that they stood on, really you

17 certainly sir, were in a position where you knew

18 problems were faced if you left that issue of wrong

19 medication just as she stated it and framed it, do

20 you agree you knew the problems you would have had

21 to face.

22 A. At that point in time I knew

23 that that was a broad statement and it presented me

24

25





D5

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with a broad problem I did, yes, which I planned to  
address and did address when I attended at Sick  
Children's Hospital.

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with a broad problem I did, yes, which I planned to  
address and did address when I attended at Sick  
Children's Hospital.

Q. You said, sir, at some point

when the Commission indicated yesterday

and I have the page and reference, let me know if

it. The Commissioner suggested to you

about when the issue of drugs as a cause of death  
raised its head here. That for instance you said in  
suicide cases what you do is you don't really know

what you are looking for but you may have got the  
suggestion that drugs may have played a part and you

start to search around for clues. This is on page 2905  
of the evidence. You said you search around for

clues and that sometimes you go so far as to look in  
garbage pails to see if you can find something there  
which might assist you in ascertaining if drugs

played a part in the death, and if so, what kind of  
drugs, it sort of limits the field that you have to  
deal with

I want to ask you a question about

that. First of all there is no suggestion whatsoever  
in terms of the sort of task you faced here with

Amber Dawson that the death of a child in 4A infant  
cardiology, Hospital for Sick Children, there is no





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2 I mention there, sir, that we were on the same  
3 boat in terms of mysteriousness in someone who  
4 committed suicide, is that correct?

1 agree, sir, that you really would not have  
2 got to garbage pails at all to find out  
3 parameters of the drugs you were looking at,  
4 upset you had said to Mrs. Dawson, what  
5 do you have in mind?

A. Yes.

10 Q. You will agree that really when  
11 yourself later in the day over to the  
12 that really it wasn't going to be much of  
13 ther to find out there on the charts what  
14 Mr Dawson had been dealing with at the time

A. Yes.

16 Q. So that when you said about  
17 somewhere to start, you really had two places  
18 to start; you could have started with the mother,  
19 and you could also have started with the Hospital

20                   A.        I believe I had started with the  
21                   mother and I believe I did deal with the Hospital  
22                   records.

23 Q. Before you went over to the





1

2 Hospital at page 2907, and this is in Volume 142,

3 so I won't repeat the Volume each time. At page

D7

4 Sir, Mr. Hunt put to you, at line 17:

"Q. Mrs. Dawson came to you in the afternoon of the day that her baby died and voiced her concern, which you recall as being one of death through medication error. At that point had you examined the chart of Baby Dawson at all?

A. No, I had not.

Q. And given the simple statement of the concern about medication error, would it be appropriate for you at that point in time to make any comment at all about the possibility of that having occurred or about what possible medications might have brought about the death of the baby?"

And you answer on the following page:

"A. I would feel uncomfortable speculating about what might have caused her daughter's death."

Doctor, in fairness really at that point in time the very reason that she was coming

24

25





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D8

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2      Q.      I suggest to find the cause of death. I suggest  
3      that really at that point in time she was  
4      asking you, she wasn't asking you for a  
5      death then, to speculate.

6      A.      I believe that at that point  
7      discuss with Mrs. Dawson what might have  
8      the Sick Children's Hospital would only  
9      her mind concerns about things that people,  
10     all it would do I felt at that point  
11     upset her more.

12     Q.      My suggestion to you, sir, is  
13     she wasn't really asking you to speculate at  
14     had laid the problem at your feet and you  
15     frank and open with her and she had  
16     all your questions. As you said she was  
17     you to find out the cause of death,  
18     leaving it to you to go about your duty  
19     so do this.

20     A.      Yes.

21     Q.      I suggest to you, sir, that you  
22     go over to the Hospital and you say, I thought you  
23     said you had notes that indicate what time in fact  
24     you go over to the Hospital?

25     A.      No, I don't believe I do have  
26     a time of when I attended the Hospital. I have a





D9

1  
2 time when the case was given to me.

3 Q. Right. I was going to lead  
4 from that, you don't as well, sir, you have advised  
5 you then looked at her chart and you looked  
6 that drug she was on at the time of death  
7 and that you ascertained she was on digoxin,  
8 an iron vitamin supplement.

9 A. An iron supplement, fer-in-sol

10 Q. But you don't have any note  
11 that in fact you did complete this task,  
12 that is our own independent recollection of that,  
13 is that correct.

14 A. I attended - are you suggesting  
15 that I did not attend at Sick Children's?

16 Q. No, I am suggesting you don't  
17 have a note of it, you are just really going on your  
independent recollection.

18 A. I attended I left the Warrants  
19 there, that is the only way the Warrant that I  
20 signed, the two Warrants that I signed could be there.

21 Q. I'm not suggesting you didn't  
22 sign the Warrants. I am suggesting you have given  
23 us now in evidence that you didn't ask Mrs. Dawson  
24 about which specific drug, but then you went over to

25





D10

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Hospital to look at the charts?

3

A. Yes.

4

Q. And you went over to the Hospital too I am suggesting to you, for the purpose to deliver the Warrants for Burial and the Warrant for Autopsy, and that in fact our recollection of even your looking at the Warrants is not supported by any notes you made, it is upon your independant recollection.

5

6

A. No, excuse me, it is supported by Exhibit 413 made by the Commissioner this morning.

7

8

Q. On the face of the Warrant I can't see you have got the case history here and you set out the times.

9

10

A. I signed the Warrant the day I was at the Hospital.

11

12

Q. Really by inference you couldn't have got the information contained there unless in fact you looked at her medical records; I am agreeing with you Doctor.

13

14

A. Thank you.

15

16

Q. Do you get the gist of what I am saying there?

17

18

A. Yes.

19

20

Q. You couldn't have these specific

21

22





D11

ates in all likelihood unless you looked at her

A. No question about that.

Q. When you looked at her charts

you see the three medications. Could I suggest to you, sir, that in terms of medications really it comes down to two medications like, that the vitamin supplement although given at particular times and prescribed by the doctor in terms of the medications that would have a danger, any real danger, we are talking about ind Aldactazide.

A. Yes, I think that is correct.

Q. It struck me for the vitamins

I really have to have a jug full of them, and given the way Amber Dawson was feeding you really didn't have any likely chance of getting a jug full of anything in to her.

A. I believe Mr. Hunt asked me what medication she was on and I told him.

Q. I understand that. So, you know at this point in time, from the mother and if you didn't know from the mother you certainly knew from the chart about the terminal events that Amber Dawson had undergone.

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BM/hr

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Q. You knew the manner of how  
Amber Dawson died?

A. Yes.

Q. All right, sir. As you  
looked at those two drugs I would suggest to you,  
Sir, you knew from your experience, if you had  
given your mind to it you would have known that  
in fact the only drug of those two that would mirror  
the terminal events that Amber Dawson had suffered  
was in fact digoxin?

A. I don't believe that Amber  
Dawson's death indicated a death by -- oh, Amber  
Dawson's death could have occurred from many reasons.

Q. I appreciate that. What I  
asked you was that mother had raised a problem  
about cause of death as wrong medicine, . wrong  
medication. You went over and looked at the charts  
to ascertain the medication the child was on?

A. Yes.

Q. You will see that in terms  
of, we will say, potent drugs we've got aldactazide  
and we've got digoxin?

A. Yes.

Q. You also see her terminal  
events and I'm suggesting to you that quite apart from the





broad range of causes that Dr. Cutz was going to look at here, that in terms of addressing the mother's — — — about drug problems that as you looked at those — — — drugs in her chart and considered had she got too — — — too often, that in fact only digoxin really — — — the real suspect as the only drug that could — — — the kind of death Amber Dawson had?

A. I'm reluctant to not suggest — — — aldactazide is a potent drug but Amber's cause — — — could be the results of many things.

Q. All right. But Dr. Cutz — — — certainly going to look at a whole area of — — — potential causes of death in her anatomy?

A. Yes.

Q. All right. You would know — — — when that there was no routine post mortum testing — — — digoxin?

A. Yes.

Q. All right. Mother has — — — expressed a concern about wrong medication, you haven't — — — asked her but you are now going to check the chart — — — and indeed you see two of them, digoxin and aldactazide?

A. Yes.

Q. And I'm suggesting to you — — — that although there may be a wide range of causes you





are not going to limit yourself here?

A. No.

Q. But at the same time in addressing her specific concern, and after all you were looking at the medication chart now to address the concern, that of the two drugs you saw there, ~~Amber Dawson~~ was the only one that was going to have ~~adverse~~ events similar to that that Amber Dawson ~~had~~ had.

A. Yes, I would agree, yes.

Q. All right. At that time, ~~you~~ you knew that within that Hospital for ~~the~~ there certainly was, at least with ~~adult~~ adult patients, there was certainly testing ~~procedures~~ available with respect to both aldactazide and ~~other~~.

A. Yes.

Q. And certainly in terms of the difficulties that you expressed earlier about a ~~drug~~ screen, if, to err on the side of caution you simply limited yourself to the two or for the three for that matter, but the two that were on her chart, that certainly would go a long way to being able to satisfy Mrs. Dawson's concern about wrong medicine?





1  
2 A. That's the case now, yes.

3 Q. Well, not even now, really.

4 I can appreciate that hindsight has these 20/20  
5 predictions, but there you have the mother expressing  
6 concern. You know Dr. Cutz doesn't do it routinely,  
7 you know, as you have said here, now and then,  
8 this concern would indeed cause those kinds of  
9 symptoms that Amber Dawson had, the lethargy, the  
10 slow heart rate and the irrecoverable  
11 sleep. You have it in front of you, you have a  
12 hospital where that in fact can do a test for you  
13 efficiently. I'm suggesting to you that  
14 I said, well, listen, I'm not going to  
15 rug for this lady but if you said I will  
16 hose two that are on the charts, then and  
17 then you would have gone a long way to satisfying her  
18 concern about wrong medication?

19 A. In reviewing the chart there  
20 was no evidence whatsoever that the drug digoxin had been  
21 ordered inappropriately or that it had been  
22 administered in any but a correct way.

23 May I suggest that with that information,  
24 that might be the one drug that I would have the least  
25 suspicion of. Amber had been on digoxin for months,  
she had her blood levels tested, the drug dosage had





1

2 varied very little over many weeks and had been  
3 carefully recorded during her attendance in the  
4 Sick Children's Hospital. I suggest that on my  
5 review of the Hospital chart this was one drug that  
6 was well documented and correctly ordered and  
7 metered.

8

9 Q. Your indulgence for just a  
10 moment, Doctor.

11 Whenever you wish to take a break, Mr.  
12 Commissioner, just give me the sign.

13

14 THE COMMISSIONER: Well, is this a

15

16 MR. SHANAHAN: If I can't locate my  
17 page it will be a great time.

18

19 THE COMMISSIONER: All right.

20

21 MR. SHANAHAN: Q: One last question  
22 Doctor. Doctor if you had Amber Dawson's  
23 medical chart in front of you - thank you, Mr. Elliott.

24

25 A. I have it here.

26

27 Q. If you could turn sir to  
28 page 37, which is the Medication and Treatment Record.  
29 You say, Sir, I think your evidence was here as I  
30 paraphrase the last answer was that there was nothing  
31 in her charts that had been carefully recorded and  
32 there was nothing in her charts that in any way might

33

34





raise my concerns on your part about the administration  
of Aspinwall.

And yet, as you can see on page 87,

ages for digoxin on the 28th and 29th haven't

... eted. I have a note here, I think it was

iles' evidence that I was scratching in here

... it was that they weren't completed because

...ts were taken off the ward prior to her

With this in mind, it and therefore they were left uncompromised.

had gone with the body.

Now, that's my scrawl that I have

but I think the evidence bears it out.

Surely when you got there and you

THE COMMISSIONER: There is some  
action here because Amber Dawson died at 2:00 o'clock  
in the morning of the 8th, am I correct on that --

MR. BROWN: I think, Mr. Commissioner, all Nelles' evidence was that the dose prescribed for 2100 hours on the 27th was administered but that was the dose that was not recorded because the child died the following morning.

THE COMMISSIONER: Oh, yes, that's the  
one yes. It is not the 28th it is the 27th at 2100





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MR. SHANAHAN: All right. So, am I

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Mr. Brown, is it the 27th then at 2100 that is  
recorded?

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MR. BROWN: I believe that's the one  
recorded but on her recollection it  
hadn't been administered in due course.

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MR. SHANAHAN: Q: All right. And that  
the reason that she gave for it being incomplete was  
that the documents left the floor with the baby's  
body too quickly for her to complete it.

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So, sir, we have that then right on  
the record on the very night that Amber died. We have  
here is yes in fact with respect to the administration  
of digoxin to her. So, I would suggest to you that  
there was no comfort to be taken here from her  
medication chart. Quite to the contrary, you saying  
it was accurately recorded, in fact, on the very night  
that she died there had been a difficulty with the  
recording of the dosage.

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A. If you refer to page 80 of  
the progress notes, the notes signed by S. Nelles  
beginning on the middle of the page?

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Q. Yes, sir.

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A. Proceeding to page 81, a





on of the events that took place, describing  
indicating that Dr. Reynolds had been  
and my interpretation of that, along with  
that you have referred to suggested to  
probably at that time the Doctor was involved  
child that was ill and that either the --  
red at that time that the medicine was not  
that time, that the dose was not received.

Q. You believe now or you

A. I believe that that was my  
at the time that that dose was probably

Q. Did you make any further  
t that?

A. No, I did not.

16 Q. But you will agree with me  
17 that you will agree with me at this time,  
18 you will agree with me that your suggestion a few  
19 minutes ago that you looked at the records to see  
20 that they were complete to see in fact whether they  
21 on the face of them indicated anything and your  
22 conclusion that in fact they accurately recorded the  
23 dosages being given to Amber throughout her stay in  
the Hospital, you would agree with me that really the





Does this sets out the dosages on the last night is potentially incomplete on its face?

A. But it does not suggest

2000-01-02

MR. SHANAHAN: Well, perhaps we will follow that up after the break.

THE COMMISSIONER: Yes. All right, we will take 20 minutes then.

• **Recess**

— 100 —





10 May 84  
RD/ac

resuming

THE COMMISSIONER: Yes, Mr. Shanahan.

MR. SHANAHAN: Yes, sir.

Q. Doctor, I think we left off  
at point where you said that you had gone over  
the charts and, indeed, had seen the two  
she had been on at the time of her death  
make it had seen the final entry on the charts  
not made by Susan Nelles. I think your evidence  
at page 2911 that what you were looking for

" ... in any inordinate amount or  
in error? "

you were referring to a drug in an inordinate  
amount or in error.

A. I'm sorry, where are we

Q. We are at your evidence  
and the purpose of your visit over there to  
spital and checking the records.

A. Yes.

Q. All right.

A. I went to initiate an  
investigation to discover cause of death.

Q. All right. And on 2910





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2 Mr. Hunt asked you at line 16:

3 " Q. And specifically what were you  
4 looking for?"

5 Your answer was:

6 " A. I was looking to see if there  
7 was any indication on the chart at  
8 all that this child had received an  
9 inappropriate drug. "

10 Did you find that?

11 A. No, I did not.

12 Q. Your answer was then and

13 now, " "

14 You outlined the medications you have  
15 said you about, coming to the top of page 2911 when  
16 Mr. Hunt asks to your at line 7:

17 " Q. Now, did you find in the chart  
18 any indication that any of those  
19 two drugs, or the iron vitamin  
20 solution, had been given in any  
21 inordinate amount or in error? "

22 You said:

23 " A. No, I did not. "

24 He asked you what else you did and you went on about  
25 the Warrants that you completed with respect to  
Amber Dawson. That is still your recollection?





A. Yes.

Q. You would agree at the time  
that in terms of errors, known errors at the  
hospital that, in fact, number one, the individual  
doctor that had made the error, in fact,  
would have to realize subsequently that they did,  
in fact, make the error?

A. For it to be recorded.

Q. Yes.

A. Yes.

Q. And they would complete  
led, I think, a Drug Incident Report and  
that would be part of the chart that you would, in  
turn, complete.

THE COMMISSIONER: I'm not sure of  
that. I'm not sure it is part -- we found that it  
wasn't on at least one occasion.

MR. SHANAHAN: All right.

Q. You were aware, put it  
this way, that if you like, it was sort of a  
self-policing type of thing, that you would remember  
and complete wherever it might be filed a Drug  
Incident Report?

A. I know that -- I don't know  
the mechanism, the form that is used at the Sick





Children's Hospital, but I know that errors are recorded in the chart in some method. I didn't know it would be an incident Report in that sense.

THE COMMISSIONER: I was going to est they are not all recorded in the chart, but perhaps I am wrong. I am not sure the error in the ~~Drug Administration~~ recorded wasn't in the chart.

MR. SHANAHAN: That is what I was ~~going to~~ due to you, sir.

Q. First of all, even the ~~error~~ set out, you knew was certainly the limitations that it had, first of all, were that one ~~had~~ realize that one had committed an error. ~~be known errors?~~

A. Yes.

Q. Second of all, if there ~~was a reporting system that, too, would have to be completed and, as we have seen, I can tell you, also, have at least one incident where the medication chart or the error record wasn't there. Certainly there was another limitation on looking at the chart for the recording of drug errors. You will agree there. One had to know the error and complete a report.~~

A. Yes.





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Q.

Finally, sir, even

presupposing that was done, you certainly weren't, I take it, in terms of the completeness of your investigation here, you weren't going to limit yourself to what someone might have told about themselves. You weren't going into it with that much of a closed mind, were you?

A.

No.

Q.

Sir, you indicated then --

Did you make any notes, by the way, of the conversation that you had with Mrs. Dawson much later in November, the final autopsy report?

A.

No.

Q.

But you do meet with her

and you reviewed that report with her?

A.

Yes.

Q.

I think you characterized --

I will just read it to you at page 2923 -- I think you characterized, sir, her attitude, at least one aspect of her attitude, was the feature of disappointment. At page 2923, sir. Mr. Hunt starts at line 11:

" Q. Did you explain to her how you felt about that particular state of affairs?





A. Yes.

Q. What was her reaction?

A. I think Mrs. Dawson was  
was disappointed. "

A. I'm sorry, I don't have you. 2923?

Q. Yes, sir.

A. Line?

Q. I was starting at line 11.

A. I'm sorry, I thought  
said 7.

Q. Just the previous answer  
sets it up that you had gone through the  
autopsy report and told her what the findings were?

A. Yes.

Q. The question was:

" Q. Did you explain to her how you  
felt about that particular state of  
affairs?

A. Yes.

Q. What was her reaction?

A. I think Mrs. Dawson was  
disappointed. "

Mr. Hunt asked you:

" Q. In what sense?

A. I believe she was disappointed





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that we hadn't discovered an error  
somewhere, something wrong. "

3

Mr. Hunt says to you:

4

" Well, certain things wrong had been  
discovered but was this in a  
different context? "

5

said:

6

" Not in a medical sense, I mean in  
a therapy sense.

7

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Q. All right, I'm sorry what do  
you mean by that? "

9

your answer was:

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" That something I think she was  
disappointed that we didn't find  
something wrong with Amber that wasn't  
explained on the basis of disease.

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Q. I see.

THE COMMISSIONER: She didn't find that  
someone had done something wrong, is  
that what you mean, or is that what  
she expected? "

You say:

" THE WITNESS: Actually, all I really  
gleaned from Mrs. Dawson at the  
meeting was a sense of disappointment.





1  
2 THE COMMISSIONER: Well, if she had  
3 spoken earlier of medication error,  
4 then surely that was what she was  
5 speaking of, is that not correct? "

6 Our answer was:

7 " THE WITNESS: At this meeting I don't  
8 recall medication error being an  
9 issue. "

10 A. At that meeting, yes.

11 Q. All right, I suspect, sir,  
12 the only disappointment there was, in fact, there  
13 \*\*\* not given to her, as she perceived it, there was  
14 not given to her a cause of death.

15 A. I don't know whether that  
16 was her disappointment or not.

17 Q. All right, let me advise  
18 you, sir, that you both agree she, too, her evidence  
19 was that digoxin or drug medication didn't come up  
20 at that meeting. I think you fairly say that  
21 and I think if you referred to her evidence she says  
22 that as well. But I'm suggesting to you that the  
23 sense of disappointment was clearly, as you related  
24 here at the autopsy report, was that that report  
25 concluded that there was no anatomical cause of  
death, there was no immediate cause of death. That,





as you conveyed that to her, caused an immediate disappointment on her part.

A. That may well be, yes.

Q. Did you think then, sir, as you, yourself, looked at that report and howplete it was, the things that went through, how surgery had been completed so successfully, and I'm not going to repeat it for you, because you have we have seen it many times. Then the inclusion, as it was, did it not perplex you then that perhaps now, if ever, was the time to test for the presence of digoxin in either her tissue or if there was any other samples available?

A. It is not uncommon to not have a continuum from the underlying cause of death to the actual cause of death event. We did not have that there in the description from the pathologist. That did not say that it did not exist. You cannot observe an arrhythmia when you do an autopsy. There are some things that don't show at autopsy that, in fact, can be related to an underlying cause of death.

It is not uncommon for a relative to not be able to accept that, because you can't present them with something tangible and visible.





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Q. I think you said to Mr. Hunt that that was acceptable to you, but that, indeed, you didn't offer that it was usual that ~~you don't~~ have the cause of death. Have I fairly summed that up, that terminology?

A. We see people who die that we cannot go to the last why. If you keep asking why or how, sometimes you can't get that last how

Q. All right. I am prepared to accept that phenomenon, if you like, but what I am suggesting to you, sir, although you found it, as you said, acceptable, you did agree it certainly ~~is not unusual~~.

A. It is not unusual.

Q. All right. Would you agree that --

A. But most times. Most times the pathologist comes up with a sequence of events that satisfy a person who doesn't have a lot of medical background and can see the sequence of events laid out before them.

Q. Yes. I was going to say it would seem to me that after the kind of exhaustive autopsy here, the Coroner being involved, that really





F-11

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3 those cases that come back, as explicitly as this,  
4 with no immediate cause of death, really they are  
5 the exception and not the rule.

6 A. Yes. They are not the rule.

7 Q. It struck me, as I looked  
8 back over the cause of death that were given to these  
9 children through the months, and of course no one  
10 had any suspicion of digoxin at the time, but as  
11 ~~we took~~ back over the months really Amber Dawson is  
12 the only chart, is the only one up to Pacsai --

13 THE COMMISSIONER: Valesquez.

14 MR. SHANAHAN: Valesquez, I think  
15 Valesquez was related to an idiosyncratic reaction  
16 to drugs

17 THE COMMISSIONER: That was a  
18 speculation.

19 MR. SHANAHAN: All right.

20 Q. I suggest to you that the  
21 categorical "no immediate cause of death", as I  
22 reviewed the 29 or 36, bearing in mind that caveat  
23 there about Valesquez that no other had such a  
24 categorical statement, that there was no apparent  
25 cause of death in the anatomy.

26 MR. HUNT: Surely that can't be  
27 something for this Doctor to comment on. He was





lived with one isolated death that he looked

THE COMMISSIONER: I agree. I think

ask him to assume that if you like.

MR. SHANAHAN: Q. I suggest to you,

when you say though it is the exception and

the rule that you are talking about the general

population. I would suggest that a child, who was

Cardiology, Infant Cardiology at Sick Children's

given her course, given the reason she was

here for a failure to thrive, and you would have

that on the records, given she hadn't had any

surgery, for her to die the way she did and for you to

subsequently be told that there was no obvious cause

of death, that really then, if the warning signs

hadn't gone off earlier, they should have gone off

then, sir, to look elsewhere for the cause of death,

sir.

A. The term was not obvious

cause of death. The immediate anatomical cause of

death not determined. That signifies to me that the

actual event that preceded death is not

demonstrated at autopsy. It doesn't indicate to me

that there are not factors that could lead to

Amber's death. That is what congenital heart disease





ANALYSTS  
STONEHOUSE & CO. LTD.  
TORONTO, ONTARIO

Bunt, cr.ex.  
(Shanahan)

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F-13

and right hemidiaphragm paralysis is all about.

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Q. And there was no immediate anatomical cause of death; and what I am saying to you Doctor, surely this was the time if ever to look around for another cause of death; surely this was the time to check the medications once and for all.

A. That would involve me having some reason to approach my superiors with a request for ~~information~~.

Q. Doctor, the next time you speak with Mrs. Dawson is after the arrest of Susan Nelles, and you spoke with her by telephone. I think you indicated that in part of that conversation Mrs. Dawson brings out the issue of digoxin?

A. Yes.

Q. I don't know whether you said specifically or not, but I would like to clarify; did you say if she specifically said, "I have read about digoxin in the papers", be it the Globe and Mail or what have you, and that is why she brought it out. Or did she, sir, simply bring up once again about digoxin?

A. I don't know whether she brought it up or I brought it up, but there was a discussion about what was in the media at that point.





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2 In all honestly I don't know how it was discussed  
3 but I do know that that was discussed.

4 Q. In fairness then quite clearly  
5 the issue of digoxin came up again, and this lady  
6 I think it is clearly in terms of a search  
7 for cause of death when you bring up the issue is she  
8 to have the baby exhumed and she indicates  
9 she is and you indicate you--

10 A. That's correct.

11 Q. And looking back, sir, then  
12 didn't you feel that at the end of that telephone  
13 conversation as that issue came up, be it from you  
14 or be it from her, really in hindsight then, sir,  
15 as you sat there in April and knew what was swirling  
16 in the air about the arrest of Susan Nelles and the  
17 modus operandi if you like of the use of digoxin, did  
18 you think then in hindsight, sir, it would have been  
19 a good thing had you in fact run those two tests for  
20 aldactazide and digoxin on Amber Dawson?

21 A. I think my hindsight is as  
22 good as anybody's yes.

23 Q. And you will agree that in  
24 fact Mrs. Dawson brings up, and I can give you again  
25 the page and the reference, she brings up that you  
did in fact make that comment to her.





15 A. Yes.

16 Q. In that conversation, that  
17 hindsight it would have been good if you had done  
18 agree?

19 A. Yes.

20 Q. Looking back, sir, on both  
21 recollection of these events, would you agree  
22 with me that in terms of Mrs. Dawson and her account  
23 of our first conversation of July 28th, really may  
24 be some upon, if you like, from one point of view;  
15 25 look back now she could be taking a position  
16 that perhaps we all take in life, that hindsight is  
17 wisdom and a tendency to say, "I told you so". Her  
18 behaviour really in one sense would be if you like,  
19 self serving; do you agree?

20 A. It could be interpreted that  
21 way, but that is not how I feel about Mrs. Dawson.

22 Q. Would you look back, sir, then  
23 in terms of your recollection of it, bearing in mind  
24 that you do, under the general umbrella of the  
25 Attorney General's Office and that you are part of  
an investigatory body under the Coroners Act.

21 MR. HUNT: It is actually the Solicitor  
22 General's Office.

23 Q. Bearing in mind the tragic





1  
2 events that have occurred in the months afterwards,  
3 and what we now know or suspect about the role  
4 of digoxin; and bearing in mind what you both - I have  
5 another long question here, bearing in mind what you  
6 both do agree about July 28th that the subject of  
7 wrong medication came up, would your recollection,  
8 sir, be clouded by the fact that you and your office  
9 really are in a serious and a difficult position if  
you overlooked the warning signs?

10 A. I don't feel that way in my  
11 heart,

12 Q. At that time I take it that  
13 you held the Hospital for Sick Children's reputation  
14 in high regard.

15 A. I did.

16 Q. If not just on the Continent  
17 really world wide it enjoyed a tremendous reputation  
18 for the care of sick children?

19 A. I would agree.

20 Q. Could I suggest to you, sir,  
21 that really your recollection is clouded by the  
22 fact that here you had a single parent, grieving  
23 over the death of her only child, and coming in to  
24 you on the day of that death, and making the suggestion  
25 about error in a Hospital that enjoyed a reputation





that you have just mentioned; and that in fact after you left you either dismissed that or overlooked that?

A. I didn't believe that.

Q. Could I suggest, sir, that you were chosen for this job, and specifically had this case allocated to you, was in fact that the reason was that you had a very upset mother, who needed to be dealt with, she needed to be reassured, and given your experience and round you were just the person to calm her down?

A. I don't believe that was why the basis - the important element of why the case was referred to me, no. I believe that may well have been an issue, but I don't believe it was why it was referred to me.

Q. It was an issue?

A. I don't know, you will have to ask the person that referred it to me.

Q. But you perceived it now as an issue?

A. As an issue.

Q. I suggest to you, sir, that you saw your main function there to be calming this lady and laying her fears about any medication errors,





and when she left unfortunately the concerns that she expressed were really swept under the carpet?

14 A. I don't believe that at all.

MR. SHANAHAN: Thank you very much.

THE COMMISSIONER: Yes. Thank you  
Mr. Shanahan. Mr. Lamek.

MINATION BY MR. LAMEK:

Q. Dr. Bunt, can we start please with Exhibit 414, the Certificate of Death that do you have a copy of that there, please?

15 A. Yes, I do.

Q. I was struck by something said to my friend, Mr. Shanahan a few minutes ago, not always being able to carry through a continuum from underlying causes to the actual final cause of the event of death?

16 A. Yes.

17 Q. I notice that on the  
18 Medical Certificate, and is that completed in your  
19 handwriting?

20 A. Yes it is.

21 Q. In the middle of the page  
22 the Medical Certificate of Death (Part 1);  
23 "Immediate cause of death:"

24 you have written:





"Immediate cause not determined".

There is then a section:

"Antecedent causes, if any, giving rise to the immediate cause (a) above, stating the underlying cause..."

A. Excuse me, yes, that happens to be on mine.

Q. You are familiar with this

A. Yes, I am familiar with it.

Q. That is what the form provided at that point?

A. Yes.

Q. And you have written in there:

"Underlying cause right hemi-diaphragm paralysis, congenital heart disease".

A. Yes.

Q. And then there is a third section:

"Other significant conditions contributing to the death but not causally related to the immediate cause (a) above"

A. Yes.





Q. Did you have discussion with Dr. Bunt as to whether the right hemi-diaphragm and the congenital heart disease were underlying causes of this death?

A. I obtained that information from the report of Post Mortem Examination.

Q. I am interested in that because at page 63 of the chart where that portion of the pathologists report is set out he mentioned those matters not as underlying causes but as contributing factors?

A. Yes.

Q. Did you have some discussion with Dr. Bunt as to whether they should more properly be described as underlying causes of the death?

A. I had discussion with Dr. Bunt about this case. Following my discussion with the pathologist and receiving his report, it is my determination, or my responsibility to make a determination of the cause of death and to fill out the Death Certificate and that is what I did.

Q. If you can do so .

A. I have to fill out a Death Certificate.

Q. You have to supply the cause





22 death if you have the information available to  
23 enable you to do it?

24 A. Yes .

25 Q. And it is fair, is it not,  
26 least on the face of his final autopsy report  
27 Dr. Gatz had identified neither an immediate nor  
28 underlying cause of death?

29 A. He hadn't worded it that

30 way, Q. S.

31 Q. Indeed he had worded it in  
32 which was curiously similar to that in the  
33 third heading?

34 A. Yes.

35 Q. "Significant conditions  
36 contributing to the death".

37 A. Yes.

38 Q. And somehow those got  
39 translated into underlying causes when you completed  
40 the Death Certificate?

41 A. I took into account my  
42 understanding of the circumstances leading to Ambers'  
43 death?

44 Q. My question, I think, was  
45 and let me go back to it, before making that translation  
46 from contributing factors to underlying causes, did





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2 you have any discussion with Dr. Cutz as to the  
3 propriety of the translation.

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A. No, I did not ask him if it  
appropriate for me to make that change. No, I  
do that.

Q. Now, if indeed those two  
are as Dr. Cutz described them, contributing  
and I take it Dr. Cutz had performed autopsies  
Coroner's Office on prior occasions, had he?

A. Yes.

Q. And he was familiar with the

A. I'm not sure whether Dr.  
familiar with the form or not. I don't  
he would fill it out hundreds of times. I  
now that he would ever fill it out.

Q. Did you ever, in talking to  
logists, make sure that they are aware of the  
ction between contributing factor and under-  
cause?

A. I don't believe I make that  
inction in the discussion with him on every  
case, no.

Q. But here you have Dr. Cutz  
who is a senior pathologist at The Hospital for  
Sick Children and who has done autopsies for your  
office before, refers to matters as contributing

24

25





20 A. Yes.

21 Q. As I understand, you, without  
22 discussion with him, you, in completing the death  
23 certificate, referred to them under the rather more  
24 detailed description of underlying causes; do I  
25 understand correctly?

26 A. Yes.

27 Q. If indeed Dr. Cutz accurately  
28 described those findings as contributing factors,  
29 believe it that as far as Amber Dawson was  
30 concerned not only was there no immediate cause of  
31 death but there was no underlying cause of death  
32 described by the pathologist.

33 A. The decision of filling out  
34 the certificate rests with me, not with the  
35 pathologist.

36 Q. I understand, but my question  
37 is this. If Dr. Cutz correctly described  
38 those two conditions as contributing factors, then  
39 would you not agree with me that at least in his  
40 pathologist's view he was able to find not only  
41 no immediate cause of death but no underlying cause  
42 of death?

43 A. If you interpret it that way





1  
2 that is the way he has recorded it, I have to  
3 that that is the case.

Q. Well, that's his language.

A. That's his language.

Q. And you did not seek to  
what he meant by that language?

A. No, I did not.

Q. Well, let's think about those  
~~two~~ for a minute. On the basis of what you knew  
about Dawson, did you have any cause to believe  
congenital heart disease was a cause of  
of her death?

Q. In reviewing the autopsy  
and reviewing the clinical course of events,  
I believed that the death certificate should read  
as it is written.

Q. Even though her congenital  
defects had been successfully repaired surgi-  
cally?

Q. Her cardiac defects, the  
ventricular septal defect and the atrial septal  
defect had been repaired, but her heart was far  
from normal.

Q. I accept that there had been  
a surgical repair of what had initially been a





...ctive heart and it was never going to be a  
perfect and normal heart, but was it your under-  
standing that she had been readmitted to the Hospital  
treatment of a heart problem?

A. She had evidence of, on report, heart problems. If you look scopic description on page 5, line -- not helping you much by using my

Q. No, that's all right. I think  
u. It is on the same page as the  
statement, is it not?

A. Yes.

Q. Pericardium shows organized  
ns.

A. Yes. Section excluding intra-  
tems shows areas of dense cellular  
is a conductive area of the heart.

Q. Yes.

A. And as I mentioned earlier, I  
possible that this was an area where  
heart disease could have resulted in  
some episode which would result

8. You were concerned that there





1  
There findings of abnormality in the conductive areas  
2 of the heart, which I take it might produce arrhyth-  
3 mias to the point where the child could succumb? Was  
4 your understanding?

A. I was looking at the Autopsy  
5 for a way of issuing a death certificate that  
6 explain the events as I knew them and would  
7 be reasonable on the basis of the findings that  
8 a pathologist had made.

Q. Dr. Bunt, forgive me, I don't  
9 want to interrupt your answers, but if you could  
10 answer the question I ask you and, if you need to  
11 consider your answer, please do.

12 My question was: Was it your  
13 understanding that the microscopic findings with  
14 respect to the heart tissue in a conductive area  
15 of the heart, as you have described it, was one which  
16 could produce heart arrhythmias to which the child  
17 might have succumbed?

18 A. That's possible. I believe  
19 that's possible.

20 Q. You believe that to be possible.  
21 Did you see any indication in the chart of this child  
22 that any such incident may have occurred?

23 A. The child died --

24

25





Q. Well, doctor, first could you

question and then explain your answer if

necessary. Did you find any indication in the

such an incident might have occurred?

A. The description of the death

recorded in the chart was not incompatible,

in my opinion, with that cause of death.

Q. Okay. You told Mr. Shanahan --

A. Excuse me, it's the page that

you and I were discussing earlier.

Q. You told Mr. Shanahan, as I

understand, that the evidence to him, that the pattern of

the child's dying could have manifested any one of

several causes.

A. Yes.

Q. And you happened to select one,

upon the abnormal finding in heart tissue

I suggest to you there was no other

indication in this child's chart of her last hospital

admission other than the terminal event, which, on

your own evidence, was ambiguous as to cause?

A. Yes.

Q. Do you regard the right

hemidiaphragm paralysis as a life-threatening

condition?





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A. I regarded it as a serious  
condition and I believe it was a serious condition  
in relation to Amber's death.

Q. Did you regard it as a life-  
threatening condition to the point where it could  
be regarded as an underlying cause of death - your  
opinion, not the pathologists?

A. I believe it could be one of  
the factors in her death, yes. If I am not  
answering your question, I apologize, but I will  
try if you want to rephrase it.

A. No. That was your belief that  
it indeed be an underlying cause of her  
death.

A. Yes.

Q. You didn't discuss that with  
Dr. Darrow.

A. No.

Q. And you were aware, of course,  
from having read the chart, that the diagnosis of  
right hemidiaphragm paralysis had been made some  
couple of weeks before her death?

A. No. I believe it was longer  
before than that.

Q. Well, certainly by July 14th,





2 in the hospital, the Laurentian Hospital in Sudbury,  
3 there is a diagnosis that the elevation of the  
right diaphragm is due to phrenic or partial phrenic  
4 paralysis.

A. Yes.

Q. If you regarded that as a  
5 indication of the seriousness which you have described,  
possibly life-threatening, that may be an underlying  
9 cause of death, did it occur to you to wonder why  
the condition had been allowed to persist as long  
as it had?

A. It was allowed to persist  
10 because Amber was ill. The alternatives were surgery,  
11 they were being considered. The hemiparesis  
came about as a result of her congenital heart  
15 disease, the treatment of her congenital heart  
16 disease.

Q. The surgical treatment?

A. Yes.

Q. Yes. And that had been in  
19 May, had it not?

A. Which makes the existence of  
21 her hemidiaphragm paralysis directly related to  
22 her congenital heart disease.

Q. Yes. I understand the  
23 continuum that you are drawing, but I am not sure  
24

25





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2 that I would regard something flowing from surgical  
3 intervention as therefore directly related to the  
4 reason for the surgical intervention. But let's  
forget that one for the moment. Certainly, for  
this child had some interruption of the  
nerve producing a degree of paralysis of the

A. Yes.

Q. She was not brought back to  
the Hospital for any pathological condition, was she?  
your understanding she was brought back  
a failure to thrive?

A. I agree that she was brought  
is the result of a failure to thrive. I don't  
think an underlying pathological condition had not  
been considered as one of the reasons for her failure  
to thrive.

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Q. Did it occur to you to ask  
the question of anybody at the Hospital whether  
any thought had been given to surgical repair of  
the phrenic nerve to remove the paralysis?

A. Oh, this I believe was

done by Dr. S.

Q. And did you ask anyone  
that had not been done prior to July 28th when  
the child died if indeed it was a life threatening

A. I'm sorry, I don't  
understand the focus or the object of your  
question.

Q. Well, let me be blunt about  
the object of my question, Dr. Bunt. The pathologist  
who conducted this autopsy identified two  
contributing factors and no cause of death. You,  
in preparing a medical certificate of death, trans-  
lated his factors into underlying causes.

A. Yes.

Q. My question really goes to  
this. If you thought that those conditions warranted  
the elevation to underlying causes of death, ~~and~~ <sup>and</sup> I am  
I am suggesting to you that perhaps some inquiry  
should have been made as to why a condition





11

12 was sufficiently life threatening for you to think  
13 it was an underlying cause of death was allowed  
14 to persist for more than two weeks?

15 A. I believed that this child  
16 died a cardiac death at that time when I read  
17 the pathologist's report and considered the  
18 course of this infant's hospital treatment and  
19 illness.

20 Q. And have you not told me  
21 everything upon which you relied in forming that  
22 conclusion?

23 A. I believe so, as best as  
24 I can recall at the moment. There may be other  
25 issues but I don't recall at this moment.

17 Q. I would take it that a major  
18 piece of information for you was the report of  
19 Dr. Cutz?

20 A. Yes, it was.

21 Q. You have referred to notes  
22 that I think you said you made at the time. Can  
23 you tell me please what matters are covered or  
24 referred to in those notes?

25 A. What notes?

26 Q. Well, at the beginning of  
27 your evidence yesterday with Mr. Hunt you said





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yes, I referred to notes which I made at the time.  
I would like to know what notes --

A. Oh, I'm sorry. My file card  
which is kept on each case.

Q. Yes.

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A. And the report that's made  
to the Chief Coroner's Office is in my handwriting  
and subsequently typed up and passed on to the  
Coroner's Office?

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Q. All right. And that is the  
extent of the notes to which you made mention?

A. Yes.

Q. All right.

A. Excuse me.

Q. I'm sorry.

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A. There are other notes in

regard to appointments and that type of thing  
that have been made by other people that are in  
my file but they are very limited to that type of  
thing.

Q. When you contacted the Hospital  
following the receipt of the message that Dr. Bennett  
wanted you to take this case on, did you make a note  
of your conversation with anyone at the Hospital?

A. No.





BM: jc

H.12

Q. All right. And when you then  
spoke to Dr. Bennett, as I think you said.

A. Yes.

Q. Did you make any note of the  
of that conversation?

A. No.

Q. When you were in contact with  
Hospital on the first occasion after receiving  
message from the Clerk, to whom did you speak?

A. I believe I spoke to someone  
Medical Records who would know whether Amber had  
been released from the Hospital.

Q. And that was your concern at  
that time, was it, to make sure the body was still  
available?

A. To make sure that Amber was  
still there and that the information was available  
to me.

Q. Okay. But you did not at that  
stage learn anything about the child, her illness or  
history or anything of that sort?

A. No, nothing.





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Q. So far as the meeting with Mrs. Dawson goes, afternoon of July 28th, as I read your evidence, and it is found, sir, on page 2893, Volume 1, your evidence is, (and I hope I don't do violence to it, Dr. Bunt,) you do not recall the subject of being raised at all during that meeting and I do not believe, your language, you do not believe on that day Mrs. Dawson expressed any suspicion that her daughter's death may have been caused by digoxin error?

A. Yes.

Q. I ask you, Dr. Bunt, are you able to state with certainty that digoxin was not mentioned?

A. I am not able with certainty to state that digoxin was not mentioned, no.

Q. There could have been such a reference in the conversation?

A. Yes, because I don't have a complete record of what was said.

Q. I take it you are fortified in your belief there was no such mention by the fact you did nothing about digoxin in your investigation?

A. I did nothing more about digoxin than I did about aldactizide or other drugs, yes.

Q. You are really saying this to





11  
12 Q. Dr. Bunt, that digoxin, you believe, was not  
13 mentioned because if it had been you would have  
14 considered it in some way in your investigation. Is  
15 this really what you are saying?

16 A. Yes, that is correct. If digoxin  
17 was an issue at that point in time I would have  
18 considered it in the investigation as an individual drug.

19 Q. Your recollection is that Mrs.  
20 ~~Amber~~ that day did express a concern that Amber  
21 ~~Amber~~ received the wrong medication?

22 A. Yes.

23 Q. Thank you. I recall my friend,  
24 ~~Amber~~ Sahan, put to you different formulations of  
25 this concept, that you used in different points in  
your evidence the other day?

15 A. Yes.

16 Q. Are you able now to recall her  
17 exact words?

18 A. No. I believe she came in  
19 expressing that concern, along with other concerns.  
20 The initial approach to me -- pardon me for backing  
21 up a bit -- the initial approach to me was:  
22

23 "My baby I don't think should have  
24 died and I want to know the cause or  
25 I want to know why my baby died"





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The possibility of wrong medication was one of the things that she mentioned during that discussion.

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Q. Yes, but since you cannot recall it is certainly not critical of you Dr. Bunt, but since you cannot recall the precise words she used to express just what it was she was concerned about the possibility, may we take it that you really can't say any more to us that there was a concern that the death perhaps may have been medication related?

A. Yes.

Q. In some way there may have been a connection with the death is what she was suggesting?

A. Yes.

Q. We can't get too hung up on the words about whether it was the wrong medicine or medication error or any thing else. The concept was she thought perhaps drugs in some way had been involved in the death of her daughter.

A. Yes. Drugs in the plural sense that we did not focus on a drug.

Q. Right. I do want to come to that. It is the lunch time Mr. Commissioner.

THE COMMISSIONER: All right. Until





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Bunt, cr. ex.  
(Lamek)

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2:15 then.

MR. LAMEK: 2:15. Thank you.

I4 4: ---(Hearing adjourned for lunch)

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resuming at 2:20 p.m.)

AA/RD/LN 3 | THE COMMISSIONER: Mr. Lamek.

1 4 | MR. LAMEK: Yes, thank you, sir.

Q. Dr. Bunt just before me broke for

lunch I think we had agreed that in light of the  
unusually unable inability to recall the precise words  
of Mrs. Dawson on July 28th, it is fair to say  
that another there was a concern communicated to  
me possible explanation for the  
death might involve medication?

A. Correct.

Q. And, as you have told us, you  
that expression of concern seriously?

A. Yes.

Q. I recognize it didn't take a  
large part of the 45 minutes you spent with Mrs.  
Dawson that day. It may have occupied only a very short  
time but it was nevertheless something you noted and  
you took seriously?

A. Yes.

Q. But really, of course, as I  
understand you, when it came right down to it, it  
was impractical in your judgment, to follow that  
concern very far, because you had no idea what  
medication might be involved. It was a limit to what





you could do?

AA2  
A. At what time are we talking now,  
Mr. Lamek?

Q. I am suggesting it was during  
meeting on July 28th you recognized a mere  
suggestion there may be some medication involvement in  
really didn't give you very much to go on did it?

A. Well I hadn't made a determination  
what time what I would do with that interest or  
concern on her part. On the 28th, the day she  
arrived in my office, she expressed her concerns and  
at that meeting I initiated the investigation.

Q. Well, I am a bit puzzled then  
by the evidence you gave when the Commissioner asked  
a couple of questions. This is page 2906, Mr.  
Commissioner, Volume 142.

A. I'm sorry --

Q. 2906. I think fairly we should  
have the whole sequence of the question beginning at line  
4 where the Commissioner said to you:

"In a case such as Mrs. Dawson's  
complaint how would you comply at all?  
If she says she has a suspicion that  
she was given the wrong medicine, how  
do you test for that sort of complaint,





AA

or can you not?"

You said fairly:

"That is my problem. I had no where to start. The compendium of drugs is probably two or three inches thick."

Mr. Hunt said:

"We are going to get into an examination of the chart to see if there was any indication in the chart of any medication errors or drugs being given that weren't perhaps recorded as that. That was the next ..

THE COMMISSIONER: What I am concerned about Doctor, is this: suppose someone comes to you and says, "I suspect my child has a medication error" and that, in its self, is not enough. I mean somebody who has died in a Hospital, it is not enough. It won't help you out at all. You can look at the chart..

THE WITNESS: Yes, you would.

THE COMMISSIONER: .. and see what you can come to. What do you say to the mother or to the relative who says this? Do you tell them that you can't without





AA4

some indication of what the medication error was?

THE WITNESS: It would depend at what point of the investigation you are talking to the relative.

THE COMMISSIONER: I don't want to ask a hypothetical question. I really mean, did you say, or what do you remember that you said to Mrs. Dawson?"

"I do not recall specifically what I said to Mrs. Dawson, but I know what my intention was, having heard what she said. "

15 with respect, that suggests to me, that at the end of  
16 that meeting with Mrs. Dawson, having heard what she  
17 said, you knew what you were going to ~~do~~ <sup>do</sup> go?

18 A. Yes.

19 Q. All right.

20 MR. HUNT: How is that different?

21 THE WITNESS: But not dismiss the  
22 issue which is what I interpreted from your question.

23 Q. Don't interpret my question,  
24 Doctor, listen to my question.

25 THE COMMISSIONER: Just a second, we





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2 have had an objection from Mr. Hunt.

3 MR. LAMEK: I'm sorry.

4 AA5 THE COMMISSIONER: I have to deal with  
that.

5 MR. HUNT: Just a clarification. We  
have had pages read and I say how is that any  
6 different from what the witness has said right now?  
That at the end of the dicussion with her he knew  
7 what he was going to do.

8 MR. LAMEK: Forgive me. I understood  
9 you to say, that when I put to you that you really  
10 couldn't do very much on the basis of that information  
11 you said you didn't know what you were going to do,  
12 I thought.

13 A. No.

14 Q. Let's start all over again.

15 A. I could do things, but I could  
16 not at that point in time decide what, if any, tests  
17 I was going to order.

18 Q. Let's go back to this  
19 question Doctor: if Mrs. Dawson said to you, as I  
20 understand your evidence to be:

21 "I am concerned there may have been  
22 some medication involvement in Amber's  
23 death".

24

25





With that information there is precious little you can do by way of screening the drugs, is there?

A. If you are talking about tests

Q. Because you don't know what you are looking for. That is what I understand your evidence.

A. Yes.

Q. You have the whole pharmacopeia <sup>spica</sup> to look at.

A. Yes.

Q. Did you tell Mrs. Dawson that?

A. No, I don't believe I told Mrs. Dawson that?

Q. Mrs. Dawson is expressing to you a concern there may be drugs involved in her child's death and you don't say to her:

"Mrs. Dawson, how do I begin? I can't possibly screen for every drug in the world."

You didn't tell her of that practical difficulty?

A. I didn't know what I might find as the investigation proceeded. I'm not going to -- that is the point that I was trying to make that I am not prepared, at that point in time, to put barriers up in front of myself by asking Mrs. Dawson to do my





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John,

Q. I am not suggesting that you ask Mrs. Dawson to do anything; I am asking whether you said to her, in the course of that meeting: "Mrs. Dawson, I don't know where to begin to find out whether there was some medication involvement in your son's death".

A. I did know where to begin.

Q. You also knew as it turned out, ~~where to end~~, did you not, on the review of the chart?

A. Yes.

Q. And the only thing you looked for in the chart was to check whether the prescribed doses were appropriate amounts; is that right?

A. Yes.

Q. And whether there were any recorded errors in administration?

A. And I reviewed the chart with the idea of trying to determine, at a course to determine the cause of death.

Q. With respect to the possible involvement of medication?

A. With respect to all possibilities.

Q. With respect to the possible involvement of medication did you do anything other





1 then check the chart for the two things you have told  
2 us, to determine the appropriateness of the prescribed  
3 ~~dozen~~ and to determine whether there was any  
4 ~~recorded~~ error in administration?

5 A. Or any incorrect or wrong drugs  
6 ~~administered~~ administered.

7 Q. With respect to --

8 A. Yes, to what you have said with  
9 ~~the~~ addition.

10 Q. Having drawn a blank on those  
11 ~~lines~~, I take it you were then squarely in the position  
12 that I put to you and you stated perfectly reasonably  
13 you don't know where to begin to look for anything  
14 ~~else~~, any other kind of drug involvement?

15 A. Correct.

16 Q. Did you not say to Mrs. Dawson:  
17 "look all I can do is this." You knew what you were going  
18 to do to follow up the suspicion of drug involvement.  
19 Why would you not tell her?

20 A. I did not discuss with Mrs. Dawson  
21 any of the steps that I was going to take to try and  
22 answer her questions. Why would I not tell her?

23 Q. Yes.

24 A. For the same reason that I  
25 would not tell her other things that I might consider





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luring the investigation.

Q. Dr. Bunt, let me understand what the situation was. You had, at the request of Dr. Bennett, taken on this case and you were talking to the mother?

A. Yes.

Q. She was a mother who that morning had lost her child, and she was a mother who for reasons that may or may not have been valid, was concerned that an independant investigation be made of the cause of her child's death?

A. Yes.

Q. Frankly she, rightly or wrongly, did not trust the Hospital to make an impartial and independant investigation. ~~Was~~ <sup>Is</sup> that fair?

A. Yes.

Q. Is that fair that that was her feeling?

A. Yes.

Q. She was concerned to know the cause of her daughter's death, because as far as she was concerned, it was an unexplained death. Is that fair?

A. Yes.

Q. One of the things that occurred





to her was the possibility of some medication involvement?

A. Yes.

Q. And you understood, rightly or wrongly, she felt that was a possible explanation for this terribly distressing and puzzling event that had happened to her?

A. Yes.

Q. And you knew that unless you could find some lead in the chart then there was really nothing you could do to track that down, didn't you?

A. Yes.

Q. Then I say to why didn't you say to her: "Mrs. Dawson, I can't tell you whether that is so or not. We might not ever be able to tell you, because there is a real limit to what I can do for you in that regard"?

A. Mr. Lamek, I didn't want to tell her what limitations there were. The lady was upset. I was not interested in telling her what I couldn't do.

Q. Did you let her go away with the idea there was something you could do about that concern?





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Bunt, ex.  
(Lamek)

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2 A. I hope I did. I hope I gave  
3 her the impression that I was going to do my best to  
4 satisfy her needs.

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Q. As you told Mr. Shanahan, you certainly didn't say to her, look is there any particular indication that you think may be involved?

A. No. Because if I had it would add to where you are alluding to.

Q. Where is that? A real investigation?

A. That more --

MR. HUNT: I'm sorry I didn't hear --

MR. LAMEK: The question was would it add to a real investigation.

MR. HUNT: I don't understand that, my friend explain what he means by that question.

MR. LAMEK: Yes.

THE COMMISSIONER: Well I don't if that

MR. LAMEK: Well, I will withdraw it.

MR. HUNT: No. Mr. Commissioner, if a witness comes to be insulted by Commission Counsel then let's know that that is what they face when they come. I mean I didn't tell Dr. Bunt that he runs the risk of Mr. Lamek insulting him with that kind of a remark during the course of questioning. If there is more to it that means it is not an insult, or that type of remark then let my friend explain that and then I will withdraw my objection to it. At this





1  
2 point now I take the position that it is a cheap shot,  
3 it is an insult, that it really calls for an explanation

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5 MR. LAMEK: Mr. Commissioner, I hope  
6 Mr. Hunt knows me well enough to know that I did not  
7 intend to insult Dr. Bunt, and forgive me Doctor if  
8 you took that from me.

9 Q. You suggested that to have asked  
10 Mrs. Dawson to suggest possible drugs that she  
11 thought might be involved might have lead to where  
12 where I was alluding this whole line may be  
13 leading. I wanted to know where you thought this  
14 was all leading? What was wrong with saying to Mrs.  
15 Dawson, look, without some help I don't know how to  
16 start to screen for all possible drugs, Mrs. Dawson  
17 can you help me.

18 A. I was prepared to make an effort  
19 to get started and try and come to some conclusions  
20 to help this lady who was very upset, four or five  
21 hours after she had been informed about her daughter's  
22 death and had been dealing with professional people  
23 who were not giving her answers. I was not prepared  
24 to put any more barriers in her way than absolutely  
25 necessary.

22 Q. Can you explain to me Dr. Bunt  
23 how asking for assistance, if she has anything to





you, is placing a barrier in her way.

A. You suggested I believe --

Q. Would you answer my question.

A. Just please hear me. You

suggested that I might say to her "I don't know where to start". I don't think that was a fair thing to say to her.

Q. I suggested now that you might have said to her "can you help me. Have you any thoughts as to what drugs might be involved?"

A. I didn't do it Mr. Lamek.

Q. How would it have been placing a barrier in her way to do it Dr. Bunt?

A. I didn't do it. That kind of suggestion would not have put a bad complexion on it, but the first question I think it would. I think it would have been inappropriate for me to say to Mrs. Dawson, Mrs. Dawson, I don't know where to start, because I did know where to start.

Q. Are you quite sure in your mind Dr. Bunt that in the course of the conversation you did not say to her, is there any medication you do have in mind and that she did or did not in that context mention digoxin; are you quite sure of that?

A. I can't be certain of it. I





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Bunt, . ex.  
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2 don't believe there was any discussion about any  
3 specific medication at the time of our first meeting  
4 the 28th.

Q. When you did examine Amber  
1's chart, you found she had been prescribed  
2 know digoxin, aldactazide and fer-in-sol.

A. Yes.

Q. Did it not occur to you that there  
1 have been an unrecorded error in administration?

A. She might have. Yes, that's  
1 possibility that she might not have received the  
2 drug.

Q. Or she might - I am sorry, go  
1 ahead.

A. Those are possibilities, yes.

Q. And indeed I take it you know  
1 from your long experience that when errors occur  
2 in respect of drug administration they are not always  
3 recognized to have occurred. Innocently and with the  
4 best will in the world, a nurse, a physician can make  
5 an error in administration without knowing it, is  
6 that fair?

A. That's fair.

Q. And you are not going to find any  
2 reference to that in the chart, are you?

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A. No.

Q. And therefore reviewing the  
chart for incident reports on the recorded administration,  
administration, is not going to give you any  
assurance that there has not been an error in  
administration, is it?

A. It is not going to give me  
total assurance that it has not happened; yes that's  
right.

Q. I suppose one way of ensuring  
at least that there had not been an error in the  
administration of the prescribed drugs for the  
child would be to write in your Warrant an order for  
assay of those drugs which you knew had been  
prescribed for the child.

A. That's possible.

Q. There wasn't a great long  
string of them, there were only two of them that  
I actually counted?

A. That's right, yes, possible.

Q. Did it occur to you to do that?

A. I did not feel it was necessary  
having reviewed the chart.

Q. Doctor, would you answer my  
question, did it occur to you to do it?





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MR. HUNT: Surely that is his answer  
to the question.

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MR. LAMEK: It is not an answer.

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MR. HUNT: He said to him did it occur  
to you to do it and he said I didn't think it was  
necessary.

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THE COMMISSIONER: No he might have,  
completely there is that he might have considered  
it and rejected it, or he might not have considered  
it at all.

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MR. HUNT: I'm sorry, I didn't catch  
your meaning.

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THE WITNESS: I am sorry, I can't  
possibly be honest with you whether I considered it  
necessary.

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Q. If you can't tell whether you  
considered it, you can't tell me whether you considered  
it necessary or not, can you? If it never crossed your  
mind how could you have thought it unnecessary?

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A. I have to go back to say I had  
no problem with writing it if I felt it was  
appropriate to do it after having reviewed the chart.

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Q. Doctor, you can't even tell me  
whether the thought occurred to you.

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A. Four years ago, no I cannot.





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Bunt, . ex.  
(Lamek)

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2 Q. Did it occur to you, Doctor, to  
3 make any enquiry as to the drugs that had been  
4 prescribed for the children in Amber Dawson's room?

5 A. It did not.

6 Q. Although I take it there can  
7 frequently be confusion about the recipient of a  
8 particular medication. That didn't occur to you?

9 A. Frequently the confusion - I am  
10 sorry.

11 Q. Let's deal with infrequently;  
12 there can be confusion, can there not, in a drug  
13 intended for ~~a~~ child <sup>A</sup> is administered by accident to  
14 child B?

15 A. That has happened I would believe.

16 Q. Yes. I am not suggesting for  
17 a moment it would have been an appropriate step to  
18 look at every drug prescribed for every child on the  
19 ward, but did it not occur to you to think of the  
20 other children in the room and whether they had had  
21 drugs prescribed which might by error have administered  
22 to Amber Dawson?

23 A. No.

24 Q. Now. you issued your Warrant for  
25 the post mortem examination on that same day; and you  
have said the case history that is somewhere on the





BB8

Warrant came from your review of the chart.

A. Yes.

Q. So if I have the sequence of things correctly then, having reviewed the chart for number of things, including - to see what if anything could be disclosed about possible drug involvement in death, you then prepared and signed your warrant?

A. Yes.

Q. And the Warrant as we know indicated no special examination or analysis with respect to medication?

A. Yes.

Q. Is it fair to say Dr. Bunt, that having made the review that you did of the chart for the sake of checking the propriety of the drugs prescribed and the doses in which they were prescribed and checking for recorded drug errors, that essentially ended your investigation of that particular concern of Mrs. Dawson's?

A. I went on to other investigation, yes.

Q. And that was the end of the drug involvement investigation?

A. Yes, certainly at that point in





BB9

Q. When did you ever do anything  
with drug investigation with respect to Amber  
Bunton?

A. Well when the whole issue  
arose several months later and the issue of digoxin  
came up issue.

Q. In the Spring of 1981?

A. In the Spring of 1981, the  
first time the issue of digoxin was brought up.

Q. Doctor I take it over the many  
years you have acted as a Coroner you have conducted  
investigations into patients who have died  
suddenly and unexpectedly in Hospitals?

A. I have.

Q. Is it part of normal routine of  
investigation to check the drug prescribed to  
the patients and look for recorded medication errors  
and so on, is that something you would routinely  
do in investigating such a death?

A. It would depend on the circumstances  
of the death.

Q. Now, I am not talking about a  
patient who dies in the operating room or anything like





BB10 that. A patient who dies on the ward but whose death is reported on the basis that it is sudden and unexpected, is that something that is a matter of routine, you would look at it?

A. You would look hopefully at all aspects of the investigation. It may be quite apparent on how the person has died suddenly and unexpectedly, and drugs would not be an issue in those circumstances.

Q. I'm sorry, I didn't mean to interrupt you.

A. If drugs might be an issue you would investigate that area, yes.

Q. In other words unless there is some more promising lead to the cause of death you would normally look at the drugs among other things, and everything else?

A. Yes.

Q. Do I have it then that with Mrs. Dawson, notwithstanding her expressed concern about drug medication, your investigation of Amber Dawson's death involved no more than your investigation of most of the Hospital deaths?

A. With that dimension of drug medicine, wrong medicine, yes, that is true.





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38(1) 3 Q. In other words whether Mrs.  
4 Dawson raised the concern with you or not, it is  
5 almost certain that you would have done exactly  
6 the same thing, you would have checked the drugs  
7 she had been on whether the doses were right; whether  
8 there was any evidence of drug error, you would have  
9 done that anyway?

10

11 A. I would have done that.

12

13 Q. When you received Dr. Cutz  
14 final autopsy report in which you reported that the  
15 anatomical cause of death was not determined, but he  
16 listed two concluding factors, did you give any  
17 thought at all to ordering an inquest?

18

19 A. I don't believe that was a  
20 point in time when I considered that necessarily.  
21 I had not spoken to Mrs. Dawson at that time when  
22 I received the report, that would not be when I  
23 would make a determination about an inquest.

24

25 THE COMMISSIONER: I'm sorry Doctor,  
which would be -

26

27 THE WITNESS: Merely having received  
28 the autopsy report, the complete report from Dr. Cutz  
29 that would give me more information but it would not  
30 be the time I would make a decision about an inquest;  
31 I had not spoken to Mrs. Dawson.

32

33





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Q. Did Dr. Cutz report not at

least give you this additional information, the cause  
of death was still unknown?

A. Yes.

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Q. And that did not prompt you to  
think there should be an inquest.

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A. The fact that the cause of death is not known is not in itself a reason to hold an inquest.

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Q. When you read that report and saw that Dr. Cutz was unable to identify the cause of death, indeed, was apparently unable to label anything, even an underlying cause of death, did the thought then occur to you that perhaps Mrs. Dawson may have been right and there may indeed have been some medication involvement in her daughter's death?

12

A. Yes, I think the possibility of other factors again entered my mind.

13

Q. It had to occur to you at that stage?

14

A. Yes.

15

Q.

Did you do anything about it, Doctor?

16

A. At that point in time it was difficult to do anything.

17

Q. Well, did you speak to Dr. Cutz to see if he had <sup>large</sup> ~~large~~ serum or tissue samples left from the autopsy?

18

A.

No, I did not.

19

Q.

Did you make any inquiry of

20

21





1  
2 Dr. Cutz or from anyone, for example, at the Centre  
3 of Forensic of Sciences to see if assays could be  
4 done if tissues or blood were available?

5 A. No, I did not, to answer your  
6 question.

7 Q. Well, was there anything  
8 that you did when the possibility occurred to you  
9 in mid October, late October, that, gosh, there is  
10 no explanation, maybe there was some drug involvement?

11 A. Excuse me, I don't believe  
12 there was no explanation.

13 Q. Well, there was no cause  
14 of death identified?

15 A. Well, there was no specific  
16 cause of death, there was no specific method of dying  
17 that was described by autopsy.

18 Q. There was not even an  
19 underlying cause identified by the pathologist?

20 A. In Dr. Cutz' first  
21 communication with me, when he and I talked about this  
22 case, a few days after the autopsy, and indeed it may have  
23 been a very short time after the autopsy, he indicated  
24 to me at that time that he had found a subphrenic  
25 abscess, that that abscess he felt was related to  
the hemiparesis of the diaphragm and that in turn was





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2 due to the surgery that Amber had had for her  
3 congenital heart disease?

4 Q. Yes.

5 A. And at that point in time,  
6 very shortly after the autopsy I believe that Dr. Cutz  
7 and I felt that we had a cause and a sequence of  
8 events which would describe Amber's death.

9 Q. I understand.

10 A. And indeed Dr. Cutz had sent  
11 samples away for culture, blood cultures and he had  
12 blood cultured I believe the area where he felt he  
13 had found an abscess and in my first communication  
14 with Mrs. Dawson I was optimistic that we had a reason  
15 for Amber's death.

16 Q. Yes, you gave us that  
17 evidence and as I understood it Dr. Cutz had said  
18 that the abscess may indeed by an important element  
19 in the death?

20 A. And not only did I feel  
21 that at that time but that was my initial report to  
22 the Chief Coroner's office in the form of a report,  
23 a written report.

24 Q. Of course, when we get the  
25 final autopsy report Dr. Cutz does not apparently  
continue to suggest that the abscess may have had





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2 any significant effect on the matter, does he?

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4 A. That is correct. At that  
5 point in time what I had was the first part of a  
6 sequence of events eliminated from the list.

7

8 Q. That's right.

9

10 A. And I then had to address  
11 that problem. My feeling at that time was that there  
12 was some event that could not be observed by examining  
13 the body, be it an arrhythmia or something of that  
14 nature. That is why the Death Certificate was filled  
15 out the way it was.

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Q. Did you, when you received  
the final autopsy report, apply your mind in any  
way to what further investigation if any could be  
done?

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A. At that time Amber was buried  
and some of the doors were at least if not fully  
closed very much so.

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Q. At the time that you received  
the final autopsy report, did you apply your mind  
as to what further investigation if any might be done?

A. Yes.

Q. What did you consider?

A. I considered whether it was  
possible to do anything more in the way of examining





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Amber or tissues.

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Q. But as you have told me  
you did not contact Dr. Cutz to see if there were  
any samples of any kind left?

4

A. No.

5

Q. Did you at any stage  
communicate to Dr. Cutz from the time you signed your  
warrant right through until after your receipt of his  
final autopsy report, did you at any time communicate  
to him the concern that Mrs. Dawson had raised about  
possible drug involvement in the death?

6

A. I can't honestly answer that,  
Mr. Lamek. I don't know whether I did or whether I  
didn't. If you will permit me to speculate. I think  
that I probably did convey that information in my  
first communication with him but I cannot swear to it  
and I cannot be certain that I did.

7

Q. You think you may have told  
him that that question had been raised?

8

A. That we have a mother who  
is concerned and here are her concerns.

9

Q. All right.

10

A. But I can't swear to it.

11

Q. All right. And then you met

12

13





2 with Mrs. Dawson, you went through Dr. Cutz report  
3 with her?

4 A. Yes, I did.

5 Q. At that stage, did you tell  
6 her what you had done to investigate the possibility  
7 of drug involvement in her daughter's death?

8 A. I don't believe at that time  
9 that drugs came back as a topic of discussion.

10 Q. I take it the answer to  
11 that question is no?

12 A. To the best of my knowledge  
13 because I can't say yes or no to it because I do  
14 not know. I am trying to answer the question in a  
15 fair way, both for her and for me. I really don't  
16 know whether it became one, but it does not come back  
17 to my memory that it was.

18 Q. I think you told me this  
19 morning that it was your impression, and certainly  
20 your intention, that when Mrs. Dawson had left on  
21 July 28th after her meeting with you, she had left  
22 with the understanding that her concerns were going  
23 to be investigated and dealt with to the extent  
24 that they could be?

25 A. Yes.

Q. And certainly you have no





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2 reason to think that she wanted less than a thorough  
3 investigation of her concerns?

4

A. That's correct.

5

Q. And in November, mid November, when you spoke to her, I take it you did not say - did it occur to you to say to her, Mrs. Dawson, I know one of the things you were concerned about was possible drug involvement, there really wasn't much we could do to follow that one up.

10

A. I don't know, Mr. Lamek,

11 whether that was voiced or not.

12

Q. Although you knew that had been a specific concern of hers?

13

A. Yes.

14

MR. LAMEK: Dr. Bunt, thank you.

15

THE COMMISSIONER: Mr. Brown?

16

MR. BROWN: I have no questions of Dr. Bunt, thank you, sir.

18

THE COMMISSIONER: Miss Rae?

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MS. RAE: I have no questions, sir.

20

THE COMMISSIONER: Mr. Young?

21

MR. YOUNG: No questions, Mr. Commissioner.

22

THE COMMISSIONER: Miss Thomson?

23

MS. THOMSON: We have no questions.

24

THE COMMISSIONER: Mr. Ortved?

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MR. ORTVED: I have a few, Mr. Commissioner.

CROSS-EXAMINATION BY MR. ORTVED:

Q. Dr. Bunt, as I understand the function of a Coroner you in effect serve as a public watch dog on death, do you not?

A. I guess I'm one of the people that does that as a Coroner. There may be other people involved as Coroners. That is one of our main functions, yes.

Q. You are really one of the very critical public functionaries who acts to ensure to the public that there aren't outstanding questions concerning death in the community, isn't that fair?

A. Yes, that's fair.

Q. And in that capacity you really have a dual function, a function of two levels: firstly, on the individual level, vis-a-vis the personal representatives of the family, correct?

A. Yes.

Q. And your responsibility in relation to the family members is to be able to address the specific concerns they have about a death in their family?

A. Yes.





Q. And if we apply that here in relation to Mrs. Dawson your duty and responsibility to her was to address those concerns that she presented to you?

A. Yes.

Q. And then on another level you owe a duty to the public at large, do you not?

A. Yes.

Q. And that duty is to ensure that deaths are followed up, as we have just discussed?

A. Yes.

Q. And to satisfy the public that there aren't questions left unanswered, correct?

A. Yes.

Q. And to hopefully through your investigation and efforts ensure that other similar deaths to the extent that they can be prevented are prevented?

A. Yes.

Q. Again, if we bring that home to the situation here in question regarding the death of Amber Dawson, if in fact it was a death due to an overdose, to expose that fact and hopefully prevent other such deaths, correct?

A. Yes, broad terms, yes.





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Q. So, just dealing with those two responsibilities, or those responsibilities at those two levels if I might and dealing with your responsibility to Mrs. Dawson first, it is clear I take it from your evidence that arising out of that interview with her she had conveyed to you a concern about medication, correct?

3

A. Yes. About drugs, I believe, rather than medication, I don't think we used the word medication.

4

Q. I mean, there is no issue as to the fact that there was a concern about --

5

A. Well, I don't know where the question is going, so...

17

Q. Well, she has a slightly different recollection than you, which has been discussed by others, correct?

18

A. All right.

19

Q. And she is more specific as to the concern that she says she addressed to you, right?

20

A. Yes.

21

Q. Just on that topic. We have heard here that you have had responsibility for investigating some 8400 deaths, is that right?

24

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A. Yes.

Q. And I take it that those would have involved thousands of interviews?

A. Yes.

Q. Of the kind that you had with Mrs. Dawson?

A. Not thousands like Mrs. Dawson, no.

Q. Well, hundreds like the one with Mrs. Dawson?

THE COMMISSIONER: I don't think Mr. Ortved is asking whether the interview was the same, it is, whether you have the same sort of situation, is that not right, where you have a mother or some close relative complaining about the death of someone, let us say in a Hospital.

THE WITNESS: Yes, there have been many, many interviews like that.

Q. And my characterization of it being in terms of hundreds is probably not very far wrong?

A. Well, I don't know really whether it is hundreds or whether it is dozens.

Q. All right. Many of those types of interviews, many of those interviews of that

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type had taken place not just before but since July of 1980?

A. Yes.

Q. And you have quite candidly conceded you have no notes with which to refresh your memory as to that interview?

A. Yes.

Q. But whereas you have had many many such interviews, maybe hundreds, I suggest to you that it is not any stretch of the imagination that Mrs. Dawson only had one such interview, right?

A. Yes.

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Q. And she, as you have described to us, was coherent?

A. Yes.

Q. Intelligent?

A. Yes.

Q. And with that in mind that might be some assistance to us in deciding whose version of that interview is to be preferred, the fact that you had so many and she has had one.

Is that fair?

A. I am not quite sure that I understand your question.

Q. I am suggesting to you that having regard to the fact that Mrs. Dawson only had one such interview and you have had so many might serve as some assistance to us in deciding who has a better recall of the detail.

A. I don't know. I don't know how to answer that question. I really don't. You are suggesting something to me and I am not quite sure what you are suggesting to me. That she might have a better recollection or that I might have a better recollection?

Q. I am suggesting that perhaps her recollection might be better.





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2 A. I can't accept that, but  
3 if that is your feeling.

4 Q. In any event, out of that  
5 interview, at least, we are clear that there was  
a concern as to medication.

A. Yes.

Q. And you have described for us, tend to review what you did in relation to that particular investigation you conducted. You attended at the Hospital, you reviewed the chart, and you thereafter received the autopsy reports, preliminary and final, and discussed them with Mrs. Dawson. Correct?

A. Yes.

Q. And aside from your attendance at the Hospital and reviewing the chart, really what you were doing was serving as an intermediary between Dr. Cutz and Mrs. Dawson; is that fair?

18 A. That is one of my  
functions, yes.

20 Q. You were basically explaining to her the findings of the pathologist?

21 A. Yes.

22 Q. If that is one of your  
23 functions, what else were you doing?

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A. Listening to her, wondering  
whether she was accepting what I was saying.

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Q. All right. I guess that  
is one of the things I brought under the umbrella  
of an intermediary. You were translating for her  
the findings of the pathologist?

7

A. Yes.

8

Q. When you were brought into  
this case, I understand that you were selected  
personally by Dr. Bennett because it was a serious  
case.

12

A. I believe that was so.

13

Q. That is the impression that  
you took from the fact --

14

A. Yes.

15

Q. -- that it was referred to you  
specifically by Dr. Bennett?

17

A. Yes.

18

Q. You never, on any occasion,  
met with any of the Staff at the Hospital, other  
than Dr. Cutz?

20

A. In reference to this case?

21

Q. Yes.

22

A. No.

23

Q. That is something that you,

24

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2 in your capacity as a Coroner investigating other  
3 deaths, have done?

4 A. Yes.

5 Q. You didn't on any occasion  
6 follow up with those persons charged with the  
7 administration of medication; is that correct?

8 A. Yes. That is a two way  
9 street.

10 Q. Well, I am sorry, you will  
11 have to explain that for me.

12 A. They didn't approach me  
13 either, knowing that it was a Coroner's case.

14 Q. The people charged with  
15 administering medication did not approach you?

16 A. Nobody approached me  
17 from the Hospital about it at all other than  
18 Dr. Cutz, who was not acting for the Hospital or on  
19 behalf of the Hospital.

20 Q. Let me just stop there,  
21 because are you suggesting that your function is  
22 somehow analogous to the persons at the Hospital?

23 A. No.

24 Q. You mean it is not in any  
25 way, because --

26 A. I am not suggesting it is.





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Q. I am going to tell you why, because you, as a Coroner, are specifically charged with a higher index of suspicion than those in the Hospital; isn't that right?

A. Yes, in this particular case; yes.

Q. So you can't really draw any comfort from the fact that someone at the Hospital charged with administering medication didn't come to you, can you?

A. Only if they were withholding something.

Q. You don't know that unless you go and speak to them, do you?

A. I don't know that unless I go to speak to them or unless they come and speak to me and on occasion they do.

Q. In terms of going to speak to them, you didn't do that in this case?

A. No, I did not.

Q. It is something you have done in other cases that you have investigated?

A. If there is an indication to do so.

Q. If there is an indication





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2 of the medication error or difficulty or overdose  
3 or whatever?

4 A. Yes.

5 Q. You didn't order any  
6 drug screen?

7 A. Yes, that is correct.

8 Q. Something that you have  
9 done in other cases?

10 A. That is correct.

11 THE COMMISSIONER: I am sorry, a  
12 drug screen? Is that what you mean, have you ordered  
13 a general drug screen? What is a drug screen?

14 THE WITNESS: A drug screen is a broad,  
15 it is a series of tests to include or exclude groups  
16 of drugs and it would normally be done on cases that  
17 one might expect to discover, such things as use  
18 of marijuana, use of narcotics, use of alcohol, and  
19 that type of thing.

20 THE COMMISSIONER: Would it involve  
21 testing of blood?

22 THE WITNESS: Would it involve testing the b  
23 for digoxin? No, it would not.

24 THE COMMISSIONER: It would probably  
25 involve taking blood samples, would it not?

26 THE WITNESS: It would involve taking





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blood samples by the pathologist and referring them to the laboratory.

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MR. ORTVED: Q. Aside from your own attendance to look over the chart, Dr. Bunt, there really was not very much more done in relation to the follow up on this death than would be the case in an ordinary hospital case were an autopsy was performed. Isn't that right?

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A. Following my -- to answer you -- I can't answer you yes and no, because at the time I received the information from, the first information from Dr. Cutz we believed we had a lead and at that point there were more things done to follow up on that lead, yes, there were.

16

17

Q. Well, this is all on the part of Dr. Cutz, right?

18

19

A. Responding to my involvement in the case, yes.

20

21

Q. Aside from your attending to look at the chart, if we leave out of this your dealing with Mrs. Dawson, I am suggesting that your involvement really ended there.

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A. In the whole case?

Q. Yes.

A. No.





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Q.

Your input into this

investigation.

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A.

No. I don't believe my

input finished with this investigation until after  
my discussions with Mrs. Dawson along in November.

7

8

Q.

Let's not be wrong now.

I am talking about your input into determining the  
cause of death.

9

A.

In that sense, yes.

10

11

12

13

Q.

I am suggesting to you

that your input into this investigation, in terms  
of deciding the cause of death really, for all  
intents and purposes, comprised your attendance and  
analysing the chart.

14

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A.

And talking to Dr. Cutz

and reviewing with him his findings and discussing  
with him where he went from there. I consider  
that involvement. I don't know whether you feel it  
is or not, but I think it is pretty narrow to suggest  
that I went and reviewed the chart and wrote out  
a Warrant and forgot about the issue.

21

Q.

I am not suggesting you

forgot about it.

22

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A.

Or dismissed it and went

about my business. I did not do that.

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Q. You mentioned in an answer to Mr. Lamek that you cannot recall, but you may have, in the course of discussing the case with Dr. Cutz, mentioned the mother's concern about medication?

A. Yes.

Q. Certainly it wasn't important enough for you to put in Exhibit 413, your Warrant, was it?

A. No.

Q. In terms of your interpretation that this was a serious case, in what respect was it serious?

A. Certainly serious to Mrs. Dawson.

Q. That is right. Is that the implication you took from Dr. Bennett involving you, that you were brought into this case vis-a-vis Mrs. Dawson, not vis-a-vis the death?

A. The two are inseparable. You can't separate one from the other at all.

Q. Because it seems to me that most of your time devoted to the investigation of the case has been in terms of speaking to Mrs. Dawson, as opposed to following up the death.





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A. If you are looking at

time frames I have no -- I shouldn't say I have no idea. I know I spent considerable time at the Hospital reviewing the chart, talking to Dr. Cutz, writing the Warrant, which obviously is only part of reviewing the chart. I believe I had discussions with Dr. Bennett and, as you have pointed out, I had lengthy discussions with Mrs. Dawson later on.

Q. If we can come back to

where I commenced in terms of your duties, as a Coroner, and, in particular, your duty to Mrs. Dawson, in relation to the concern that she addressed to you about medication, aside from reviewing the chart, you did nothing?

A. About medication -- no, I

did not.

Q. In terms of that larger

public duty, the duty of satisfying the public that questions don't remain outstanding, to the extent that the public had an interest in ensuring that there was no difficulty here regarding medication, again aside from reviewing the chart you did nothing?

A. Excuse me, I don't appreciate

that, the implications of that question, because I

did proceed to very carefully, with the help of Dr. Cutz,





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Bunt, cr.ex.  
(Ortved)

3195

DD-11

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2 try and determine the cause of death.

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DM/ac  
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Q.

Well specific to the subject  
of medication.

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A.

Specific to the subject  
of medication? The answer to your question would  
be, you are right.

7

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9

THE COMMISSIONER: Are we going to  
proceed now? Miss Kately, perhaps you could tell  
us how long you will be if you will be at all.

10

MS. KITELY: I won't be at all, no sir.

11

MR. LABOW: No questions.

12

THE COMMISSIONER: Mr. Shinehoft?

13

MR. SHINEHOFT: I have only five  
questions to ask this witness.

14

THE COMMISSIONER: Well now I have  
lost track of whose witness this is, I don't know  
who is coming - it is his witness, well then you.

15

MR. LAMEK: I will have nothing more.

16

17

THE COMMISSIONER: Mr. Hunt, how long  
do you need for reply?

18

MR. HUNT: Half an hour, I think.

19

THE COMMISSIONER: I think we will  
take 20 minutes now then.

20

--- (Short Recess)

21

--- Upon resuming

22

THE COMMISSIONER: Mr. Tobias, either

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2 you were not here or I did not see you, do you have  
3 any cross-examination?

4 MR. TOBIAS: I have no questions of  
5 this witness at all.

6 THE COMMISSIONER: Yes. Thank you.  
7 Mr. Shinehoft?

8 CROSS-EXAMINATION BY MR. SHINEHOFT:

9 Q. My name is Jack Shinehoft.  
10 How long have you been a Coroner, Doctor?

11 A. I was appointed early in  
12 1962.

13 Q. So until the time of  
14 Amber Dawson's death, that would have been what,  
15 20 years?

16 A. Roughly, yes.

17 Q. And during those 20 years,  
18 Doctor, approximately how many cases would you have  
19 been involved in in your capacity as a Coroner?

20 THE COMMISSIONER: I think we have heard  
21 all of that Mr. Shinehoft.

22 Q. Just approximately.

23 A. 8,400 now, so I would have  
24 to take one-fifth off, I would think, something around  
25 6 or 7,000 cases.

26 Q. You listed a cause of death





EE-3

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2 in your report on Amber Dawson, and again would you  
3 repeat what you indicated was the cause of death?

4 THE COMMISSIONER: The immediate  
5 cause not determined, it is all in Exhibit 414.

6 THE WITNESS: The immediate cause of  
7 death not determined, underlying causes hemidiaphragm  
8 paralysis, congenital heart disease.

9 Q. Had you ever had in the  
10 course of your involvement as a Coroner that type  
11 of a diagnosis, that kind of a report as to cause  
of death previous to this?

12 A. Yes.

13 Q. You had?

14 A. Yes.

15 Q. Would that be a fairly  
common type?

16 A. Not common, but not  
17 uncommon either.

18 Q. I was interested, Doctor,  
19 when you said that not knowing the cause of death  
20 is not necessarily the reason to conduct an inquest;  
do you recall saying that?

21 A. Yes.

22 Q. Again, you said that that  
23 is not that infrequent, or uncommon, when you

24

25





2E-4

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2 really don't know the cause of death of a particular  
3 child?

4

A. That is true.

5

Q. Would that be in say  
6 10 per cent of your cases, or 20 per cent of your  
cases?

7

A. Not that high. I would  
8 be guessing, I could come up with an answer if I  
9 was permitted to review my cases, but it is not  
10 something I would - a small percentage of cases.

11

Q. And in those small  
12 percentage of cases do you ever have an inquest held  
13 were you cannot determine the cause of death?

14

A. Not being able to determine  
15 the cause of death, as I said, was not an important  
16 factor in ordering an inquest. It might be a factor,  
but it would not be necessarily an important factor.

17

Q. So there would be other  
18 factors that you would have to have in addition to  
not knowing the cause of death that would have led  
19 you to the conclusion that an inquest would have  
been a proper course of action as far as the death  
21 of Amber Dawson is concerned?

22

A. Yes. That is correct.

23

Q. And none of these elements

24

25





EE-5

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2        were present as far as you were concerned?

3            A.            No, not at the time that  
4        I made that determination.

5            Q.            But subsequent to that  
6        were there facts in the case that would have led  
7        you to come to that conclusion?

8            A.            The fact that there has  
9        not been an inquest leaves the option open.

10           Q.            So, you are saying as of  
11        today's date there could still be an inquest into  
12        that child's death?

13           THE COMMISSIONER: I think we have  
14        filled that gap.

15           Q.            Is that what you are  
16        saying, Doctor?

17           A.            I am saying that is a  
18        possibility.

19           THE COMMISSIONER: The first recommendation  
20        in my report is that there be no inquests done on  
21        any of these children.

22           THE WITNESS: Thank you, Mr. Commissioner.

23           MR. SHINEHOFT: Thank you, Doctor,  
24        those are the questions I had.

25           THE COMMISSIONER: Yes. All right.  
26        Have you changed your mind?





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MR. LAMEK: No, I have not, sir.

3

THE COMMISSIONER: Thank you. Mr. Hunt?

4

RE-DIRECT EXAMINATION BY MR. HUNT:

5

Q. Sir, I just want to pick up on something that my friend, Mr. Ortved, developed and then left rather quickly. You indicated that you have on other occasions had medical personnel from hospitals come forward with information when you are conducting a Coroner's investigation.

6

A. Yes.

7

Q. And when you say that, do you mean that they have done that on an unsolicited basis?

8

A. Yes.

9

Q. And do the medical personnel who have done that on other occasions include doctors?

10

A. Yes.

11

Q. And nurses?

12

A. Yes.

13

Q. And on the occasion when you went into the Hospital on July 28th to check the chart of Amber Dawson, I take it it was no secret that Amber Dawson was a Coroner's case either that day or very shortly after that?

14

A. I believe that was fairly

15

16





common knowledge in the Hospital.

Q. And you, sir, at that time were treating this as a single isolated death requiring investigation?

A. I was.

Q. And you have indicated that no one came forward in this particular case from the medical personnel, doctors or nurses, voluntarily with any answers and information, is that right?

A. That is correct.

Q. As of the end of July then, did you know that Amber Dawson represented the fifth death on Wards 4A/4B in less than a month?

A. I had no idea of that.

Q. Did you know from any source at that time that as of the end of July, and we have heard from a number of witnesses here, including senior personnel amongst the nursing staff, and I will just refer to the names, we have heard from Mary Costello, Lynn Johnstone, Mary Coulson, Bertha Bell, that by the end of July there was an atmosphere of concern amongst those personnel, the nursing personnel, senior nursing personnel, about the unexplained increase in the number of deaths on





the wards from the end of June to the end of July?

A. I had no idea of that, no information to that effect at all.

Q. That wasn't made known to you at the end of July when you went in to do your investigation, or even into August at all when you were waiting for the report from the pathologist?

A. That's correct.

Q. Now are you able to tell us, and maybe you can't, but if you can we would appreciate your help. Are you able to tell us if you had been made aware, when you went in to investigate what you thought was a single, treated rather as a single isolated occurrence, the death of Amber Dawson, that there was at that time a concern amongst, certainly the senior nursing personnel in any event, of an unexplained increase in the number of deaths in the one month period prior to Amber Dawson's death. Can you tell us whether that would have impacted on you in any way?

THE COMMISSIONER: Yes, Miss McIntyre?

MS. MCINTYRE: Before asking this question and before having it answered, I would suggest that Mr. Hunt has to establish whether any of the nurses would have known that Dr. Bunt was in the Hospital,





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or had any opportunity to speak to him.

10 MR. ROLAND: I have a problem, as well,  
11 Mr. Hunt says unexplained deaths.

12 MR. HUNT: I said unexplained increase.

13 MR. ROLAND: Well, that is not  
14 accurate, there were explanations given for all of  
15 these deaths, whether the correct explanation or  
16 not, certainly apart from Dawson or at least in most  
17 of the deaths there were medical explanations at the  
18 time and explanations when they reviewed them as well.  
19 So when he says unexplained it is not fair to the  
20 people who were in the Hospital at the time to  
21 characterize that.

22 THE COMMISSIONER: Well surely though  
23 he is allowed to put the question, he is allowed  
24 the question. He is not allowed to put the question  
25 in a way that doesn't represent that facts. We have  
heard so much evidence about so much concern that  
people were having around the Hospital and the nurses,  
and the doctors were telling them that everything was  
all right.

26 MR. ROLAND: There was concern no doubt  
27 about the increase in deaths, and there was concern  
28 about increase in deaths, but Mr. Hunt doesn't say  
29 that, he says concern about unexplained increase in





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deaths and that is not fair. If he says increase  
in deaths that is one thing.

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THE COMMISSIONER: Well you see before  
we get too excited about it, this is almost a  
purely hypothetical question. The hypothetical  
question as the owner is only as good as the hypothesis.  
So, if the hypothesis is wrong you can always ask  
him to disregard the answer. Surely let him, as  
long as it is somewhat close to what we have heard  
rather than go back and study all of the evidence  
and have it precisely. I have your point. I know  
that the nurses were reassured by the doctors that  
all of these deaths were natural.

MR. ROLAND: Mr. Commissioner, I would  
have thought today after 140 odd days of evidence  
and the experience we have had about this Commission is not  
to permit the hypothetical, it does not accurately  
reflect the evidence because the damage done to  
everybody and to this process --

THE COMMISSIONER: Yes, there is  
something in that.

MR. ROLAND: It is because of hypotheticals  
that are not founded on fact that we have had all  
the problems. I think it is time not to permit those  
kinds of questions.





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Bunt, re.dr.  
(Hunt)

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ER-11

2  
MR. HUNT: To save time rather than  
respond let me drop the word, 'I'll explain'.

3  
THE COMMISSIONER: I think that is  
good.

4  
MR. HUNT: Because we are only at  
the end of July in this part of the hypothetical.

5  
THE COMMISSIONER: If there had been  
an increase in deaths.

6  
MR. HUNT: Right.

7  
THE COMMISSIONER: Which had caused  
some concern.

8  
MR. HUNT: Among certainly, at least  
the senior nursing personnel.

9  
THE COMMISSIONER: And all of that  
10 is correct, is it not Ms. McIntyre and Mr. Roland?  
11 There had been an increase in deaths and there had  
12 been concern among the nurses.

13  
MS. MCINTYRE: I think there was  
14 certainly concern among the nurses, particularly  
15 with respect to the Dawson death, it was the one  
16 they were referring to.

17  
THE COMMISSIONER: I think there was  
18 a concern more than just in the Dawson death. There  
19 was concern about the Woodcock death, and I think  
20 concern certainly about the Taylor death. At any

21

22

23





ME-12

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2 rate, there was concern, which were the ones that  
3 were in the first review, do you remember?

4 MR. HUNT: The first review, Dawson,  
5 Taylor, Turner.

6 THE COMMISSIONER: Turner is afterwards.

7 MR. HUNT: Turner, I don't know, sir.

8 THE COMMISSIONER: All right.

9 MR. HUNT: Let me just rephrase it  
then.

10 THE COMMISSIONER: Rephrase it, start  
11 again at the beginning with this question.

12 MR. HUNT: Q. Sir, if you can tell  
13 us, if you had been made aware, because this is just  
14 at the end of July when you first went into the  
15 Hospital, that amongst the senior nursing personnel  
16 at the very least there was concern about the increase in  
17 deaths over the prior months on the Wards 4A/B where  
18 baby Dawson died. Are you able to say whether that  
19 would have had any effect on you at that point in  
time?

20 MS. MCINTYRE: I'm sorry to rise again,  
21 but I still have a problem with this time frame where  
22 you say senior nurses, clearly the concern was at  
23 the staff level.

24 THE COMMISSIONER: I think you are right.

25





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Bunt, re.dr.  
(Hunt)

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FB-13

2 I think you are right the concern was more among  
3 the nurses on the ward.

4 MR. HUNT: I am counting Coulson  
and Johnstone as nursing supervisors that is senior.

5 THE COMMISSIONER: Yes, but were they  
6 concerned at the time?

7 MR. HUNT: Oh, yes. I can point to  
8 the pages if my friend wants them. When Lynn Johnstone  
9 returned from her holidays in July, she was told about  
10 the increase in deaths by Coulson and you will find  
11 that in volume 103 --

12 THE COMMISSIONER: What time was that?

13 MR. HUNT: This is when she returned  
from her holidays in July.

14 THE COMMISSIONER: Yes.

15 MR. HUNT: She was informed by Coulson  
16 about her concern over the increase in deaths and  
17 that is volume 103, page 3472-3476.

18

19

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BM/hr 1

2 THE COMMISSIONER: Well, I'm not sure--  
3 yes.4 MR. HUNT: Q: Coulson by July of 1980  
5 had observed the pattern that the deaths were at night  
6 and in the presence of this same team, Volume 106,  
7 page 4115 to 4119; Costello. I mean, I can go on  
8 and give all the references if my friend wants but I will  
9 stick to senior nursing personnel.10 MS. McINTYRE: Well, senior nursing  
11 personnel would seem to suggest, Sir, the Director  
12 of Nursing, the nursing office

13 MR. HUNT: Oh, I'm sorry.

14 THE COMMISSIONER: What about the middle  
15 level, middle and the lower level too.16 MS. McINTYRE: It is actually very  
17 important, Sir, because if you recall, Coulson and  
18 Johnstone were only the night shift and I assume  
19 Dr. Bunt didn't work the night shift, he was not in  
20 the Hospital on the night shift?21 MR. HUNT: I am just trying to find  
22 out whether anybody who with all this concern thought  
23 might not be important to come before her and let her know24 THE COMMISSIONER: Never did anyone  
25 have a better chance to consider an answer. There  
was concern among nurses, some of whom were at the





1

2 middle level; how is that? If you had been informed  
3 about that would it have made any difference in your  
4 activity?

5 MR. HUNT: This is just at the end  
6 of July, we haven't got past that point yet.

7 THE WITNESS: A: If anyone at the  
8 Hospital had suggested to me that there was some  
9 other dimension to the investigation that I was  
10 carrying out I would have been obliged to consider  
11 that and if that involved other deaths I would want  
12 to know which deaths were being considered, whether  
13 they had been investigated by the Coroner's Office  
14 and if not it would be appropriate for me to review  
15 the charts or consider that as a dimension to my  
16 investigation, yes.

17 Q. All right. Well, you have  
18 indicated you were treating Amber Dawson as a single  
19 and isolated event when you went into the Hospital  
20 late July to investigate?

21 A. That's true.

22 Q. When you say if you had  
23 been alerted by anybody, nurses or doctors, that there  
24 was any other dimension to this problem then your  
25 response to it would have had to incorporate that  
other dimension?





1

2 A. Yes.

3 Q. And I take it you would have  
4 been interested in what the concern was?

5 A. Yes.

6 Q. All right. Well, let's move  
7 ahead a bit. You got the final autopsy report on  
8 Amber Dawson in mid October?

9 A. That's correct.

10 Q. And you at that point set up  
11 a discussion with Mrs. Dawson for some time in early  
12 to mid November?

13 A. Yes.

14 Q. And in the interim you were  
15 formulating your assessment and of course waiting to  
16 speak to Mrs. Dawson?

17 A. Yes.

18 Q. And you were considering  
19 what the results of the post mortum examination were?

20 A. Yes.

21 Q. All right. Did any of the  
22 good doctors or nurses at the Hospital at any point  
23 up to the end of October advise you that by this  
24 point in time there had been sixteen deaths on Wards  
25 4A and 4B since the end of June?

26 A. No one had spoken to me. The





1

2 only contact I had at Sick Children's was Dr. Cutz.

3 Q. All right. Now, we have  
4 heard from a number of the same middle management  
5 nurses and as well some of the regular troops that  
6 by this point in time by the end of --

7 THE COMMISSIONER: You are mixing  
up your metaphors there somewhere.

8 MR. HUNT: Pardon?

9 THE COMMISSIONER: You are mixing your  
10 metaphors. Troops are military.

11 MR. HUNT: Yes.

12 THE COMMISSIONER: And the other ones  
are civilians.

13 MR. HUNT: Oh, I'm sorry. All right,  
14 let me avoid the metaphors. I think you understand  
15 what I mean. The nurses who were responsible for  
16 keeping charge of the other nurses who were on the  
17 floor, they were all by this point in time coming to  
18 certain conclusions. I shouldn't say all, that's an  
19 overstatement but I can give you the page references  
20 and numbers. We have Nurse Browne by the end of August  
21 she was aware of deaths at night. The increase in  
22 deaths was at night and confined to a single team.  
23 By August or September the same Nurse Costello realized  
24 that the deaths were at night, restricted to a single

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2 team; Nurse Bell was aware they were concentrated to  
3 a single team at night; Nurse Johnstone again a single  
4 team at night; Nurse Coulson aware of the timing of  
5 deaths at night and a single team by the end of  
6 October; Nurse Radojewski aware by September the  
7 deaths were on the same team in the early hours of  
8 the morning; Nurse Scott aware of the presence of  
9 the same team on deaths occurring by the end of  
August.

10 I take it you weren't make aware by  
11 any of the doctors or nurses that that was a pattern  
12 or feature of death on the ward that had been observed  
13 by that point in time?

14 A. No one contacted me at all.

15 Q. Well, were you aware that  
16 as a result of the concern the doctors had set up  
17 not one but two morbidity and mortality reviews since  
18 September, the month of September to consider some  
19 of the nurses concerns about the increase in deaths  
on the wards?

20 A. I knew nothing of that.

21 Q. Now, we have also heard  
22 evidence here that by the end of October the stress  
23 that had been created by the increase in deaths from  
24 the end of June through to then had lead to discussions

25





1

2 about splitting up one of the nursing teams, the one  
3 that had been observed in whose presence the deaths  
4 were occurring, were you aware of that?

5 A. Not at all.

6 Q. Were you aware that the  
7 stress by the end of October was so great that there  
8 had been discussions about providing psychiatric  
9 counselling for the nurses?

10 A. I had no indication of any  
11 of that.

12 Q. All right. So, all of this  
13 day to day life on the ward and the problems created  
14 by the increase in deaths, none of the doctors  
15 approached you with any of that information?

16 A. No.

17 Q. Nor did the nurses?

18 A. No.

19 Q. So, this was not one of these  
20 fortunate situations that you had experienced in  
21 the past where people came forward unsolicited with  
22 information for you to consider?

23 A. That is correct.

24 Q. Well now, let me just put  
25 it to you that hearing all of that and in mid October  
you, Dr. Bunt, are considering Amber Dawson and





1

2 the post mortem examination of Amber Dawson as still  
3 a single isolated event?

4

A.            Absolutely.

5

Q.            And had you been made aware  
5 of the features of life at the Hospital and on the  
6 ward that I have just advised you of up until the  
7 point in time when you were considering the post  
8 mortem report in connection with the single isolated  
9 death, how, if you are able to tell us, would that  
10 have affected you?

11

A.            It would have put a completely  
11 different complexion on the case that I was investigating.

12

Q.            In what sense?

13

A.            Instead of investigating  
14 a single isolated case of death at Sick Children's  
15 I would have been informed of the concerns and as  
16 a result of that would have been obliged to enlarge  
17 the investigation to include those cases which would  
18 have been expressed as cases of concern to me.

19

Q.            Well, would you have done  
19 all this on your own?

20

A.            No.

21

Q.            Or would there have been  
21 other people that you might have talked to?

23

A.            I could not have done that

24

25





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2 on my own, I would have to go directly to my superior  
3 and informed him of the information that had been  
4 made available to me. On the basis of that approach  
5 I would have said to him I'm sure, I have to do more  
6 now, Amber has been buried but we have to seriously  
7 consider what will be necessary to throw more light  
8 on this case with the information that we now have  
or will be able to gleen.

9 Q. So, all through the piece  
10 being unaware of all the information that I have  
11 referred to, and that's just a summary of some of  
12 the things we have heard, you were acting by yourself  
13 without this knowledge, treating this as a single  
isolated event?

14 A. Yes.

15 Q. And the first time when it  
16 struck you that this maybe more than a single isolated  
17 event was when?

18 A. Was when the issue became  
19 somewhat common knowledge at the Coroner's Office.  
20 Now, I can't give you a date but there was a time  
21 when information was available to some of the Coroners  
22 at the Coroner's Office that there was something  
amiss at Sick Children's.

23 Q. Was this in March when we

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2 have heard that Dr. Tepperman, who is a Coroner?

3 A. Yes.

4 Q. Was informed of digoxin  
5 levels in both Kevin Pacsai and Janice Estrella?

6 A. Yes.

7 Q. And immediately called  
8 a meeting at which the homicide officers were invited  
9 to attend?

10 A. Yes.

11 Q. That came along in March  
12 you say?13 A. I'm not sure of the dates  
14 but in that time frame, yes.15 Q. And if your information as  
16 of October when you were trying to work through  
17 this post mortem report had contained as a base the  
18 information that I made you aware of here today,  
19 are you able to indicate what meetings might have  
20 been held at that point in time?21 A. I would have met with Dr.  
22 Bennett because he was at that time the contact that  
23 I had in respect of the Amber Dawson case and I would  
24 have sat down with him and said, here I have some  
25 additional information about a serious, what could  
be a serious situation in respect of the case I am





1

2 investigating but it may have other ramifications  
3 and I will need assistance, I can't ignore this, I  
4 will need either authority to investigate some of  
5 these myself or have other Coroner's involved and  
6 quite possibly other facilities, police, et cetera,  
made available.

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Q. So we may have to speculate

as to whether the Homicide officers would have been called in then, but we certainly know that in March when two cases were drawn to a coroner's attention, the Homicide officers were in the very next day?

A. Yes.

7

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MR. HUNT: Thank you. Those are all the questions I have.

9

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THE COMMISSIONER: All right, thank you.

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MR. ROLAND: Mr. Commissioner, I didn't cross-examine this witness. In fairness, Mr. Hunt has brought out some things that weren't brought out in chief and I didn't have an opportunity to ask this witness about this last line of questions. I would like to ask him a couple of questions about it.

THE COMMISSIONER: Yes. I will come

back to Mr. Hunt afterwards and I hope it won't, the interchange will not last longer than 5 o'clock.

CROSS-EXAMINATION BY MR. ROLAND:

Q. Just a couple of questions.

20

21

Doctor, my name is Ian Roland and I act for the Hospital.

22

23

You didn't investigate the Laura Woodcock death did you?

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2 A. No, I did not.

3

Q. And you didn't investigate  
4 Velasquez' death either, did you?

5

A. No.

6

Q. Did you know about those two  
7 deaths during your investigation of the Dawson case?

8

A. No, I didn't.

9

THE COMMISSIONER: Velasquez was  
10 after.

11

MR. ROLAND: Yes, but it was during  
12 his investigation.

13

THE COMMISSIONER: Yes.

14

MR. ROLAND: That is what Mr. Hunt  
15 is talking about. He takes it as far as October or  
November. He didn't know about either of those two  
16 deaths, did you?

17

A. No, I did not.

18

Q. But you now know both of those  
19 were reported to the Coroner's office. You don't  
know that today?

20

A. I know through the media, yes.

21

Q. So that I take it in the  
22 Coroner's office, itself, there is no system of  
23 correlating these deaths in any way reported from a  
single institution to see if there is some sort of  
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2 pattern. There certainly wasn't with the Woodcock  
3 or the Velasquez case that were both reported.

4 A. That is a question I can't  
5 answer. I don't know whether there is or is not.

6 Q. They certainly weren't brought  
7 to your attention, were they?

8 A. No, they were not.

9 Q. And if some nurses had said to  
10 you well, we are a little concerned about the increase  
11 in the number of deaths, I take it before you got  
12 much further in any kind of investigation you would  
13 want to talk to the doctors, who were in charge of  
14 those babies, to determine what their views are or  
15 were as to the causes of death?

16 A. Are you asking me now what the  
17 process would be of my investigation?

18 Q. Yes. Mr. Hunt is saying to  
19 you well, if these nurses had come to you or mentioned  
20 it to you that they were concerned about an increase  
21 in the number of deaths --

22 MR. HUNT: Or doctors.

23 MR. ROLAND: Q. Or doctors -- increase  
24 in number of deaths, you would want to find out from  
25 the treating physicians what they viewed was the cause  
of death. Isn't that right?





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A. The first thing I would want to know is names.

4

Q. Yes.

5

THE COMMISSIONER: You don't do that around here.

6

THE WITNESS: Mr. Commissioner, until I have a name I don't have a coroner's case reported to me.

9

THE COMMISSIONER: All right. That is an in joke.

11

12

THE WITNESS: I don't seem to be a part of many of the in jokes around here.

13

14

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MR. ROLAND: Q. Having obtained the name I gather one of the first things you do is go to the treating physician and find out who that was and determine what that physician's view was concerning the condition of the baby and what his view was, as to the cause of death?

18

19

A. That would be one of the processes of investigation, yes.

20

21

Q. That would be early on, I gather, in the investigation, wouldn't it?

22

A. It might or it might not be.

23

24

Q. And if there was an autopsy on the infant you would want to determine from the

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2 pathologist what the autopsy report said?

3 A. That would be one of the  
4 processes, yes.

5 Q. Yes. And having looked at  
6 those you would also want the view of an expert in  
7 paediatrics, and perhaps paediatric cardiology, as  
8 to the condition of the baby, as shown in the chart,  
9 as disclosed by the treating physician and, as  
analyzed by the pathologist, wouldn't you?

10 A. That would be part of the  
11 process, yes.

12 Q. And those individuals, some  
13 of the best experts in the city, are at The Hospital  
14 for Sick Kids', aren't they?

15 A. Yes.

16 MR. ROLAND: Thank you.

17 THE COMMISSIONER: Mr. Hunt?

18 MR. HUNT: No, thank you.

19 THE COMMISSIONER: All right. I  
thank you, Doctor.

20 ---- Witness withdraws

21 THE COMMISSIONER: Do you want to  
tell us, Mr. Lamek, what is in store?

22 MR. LAMEK: Mr. Commissioner, as a  
23 result of a number of telephone calls and so on we

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2 have decided that next week we will call Dr. Kantak  
3 and we hope he will be here on Monday, but he may not  
4 be here until Tuesday. All I can do is to let  
5 counsel know tomorrow. We should have the information  
6 by then and Dr. Kantak will be the last of the  
7 witnesses to be called by Commission Counsel in  
Phase I.

8

9 THE COMMISSIONER: All right. Can  
10 you estimate, would he be longer than a day that you  
anticipate?

11

12 MR. LAMEK: Miss Cronk will be  
leading the evidence. Perhaps she can speak to that.

13

14 MS. CRONK: I certainly would hope not.  
I would not expect it would take longer than that.

15

16 THE COMMISSIONER: Monday or Tuesday.  
17 I think all anybody can do then is call in, because  
if we don't have Dr. Kantak on Monday we won't have  
anyone on Monday and we won't be sitting on Monday.

18

19 Now, unless, of course, someone has  
20 a witness that he wants to call and will agree to  
calling -- can you help us, Miss Rae, as to whether  
you intend to be calling any witnesses?

21

22 MS. RAE: I am afraid, Mr. Commissioner,  
23 that we are still not in a position to advise you.  
There is still a possibility that we will wish to

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2 make a request to you to call a witness, but we are  
3 not quite certain at the moment.

4 THE COMMISSIONER: Yes, all right.

5 Mr. Shanahan, you are not calling any witnesses?

6 MR. SHANAHAN: No, sir, no witnesses.

7 THE COMMISSIONER: Mr. Tobias?

8 MR. TOBIAS: At the present time I  
9 have no intention to call any further witnesses, sir.

10 THE COMMISSIONER: Mr. Labow?

11 MR. LABOW: Only to reserve the right  
12 of speaking to the two doctors that I understand are  
13 on vacation.

14 THE COMMISSIONER: You have no  
15 immediate intentions?

16 MR. LABOW: No immediate plan.

17 THE COMMISSIONER: Now, Miss McIntyre?

18 MS. MCINTYRE: We do propose to  
19 call a witness.

20 THE COMMISSIONER: Yes.

21 MS. MCINTYRE: And her name is  
22 Dr. Marion McGee.

23 THE COMMISSIONER: Marion?

24 MS. MCINTYRE: McGee, M-c-G-e-e. She  
25 is the Dean of Nursing at the Health Sciences Centre  
at the University of Ottawa and we propose to call





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2 her as an expert nursing witness.

3 THE COMMISSIONER: What is she going  
4 to tell us?

5 MS. McINTYRE: Okay. Sir, as I  
6 understand it, we have the right, as a party with  
7 standing under Section 5(1) to call a witness subject  
8 to certain conditions.

9 THE COMMISSIONER: The only condition  
10 is that it has to be in your interest.

11 MS. McINTYRE: The evidence has to  
12 be relevant to the issues before you.

13 THE COMMISSIONER: Relevant to your  
14 interest.

15 MS. McINTYRE: And relative to our  
16 interests, sir.

17 THE COMMISSIONER: Yes.

18 MS. McINTYRE: The third condition  
19 I take it, is that she be available next week.

20 THE COMMISSIONER: Well, I suppose  
21 that is a practical one; yes.

22 MS. McINTYRE: Yes. On the third  
23 condition I can satisfy you easily I think.

24 THE COMMISSIONER: She is available?

25 MS. McINTYRE: She is indeed  
26 available next week.





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2 THE COMMISSIONER: That is certainly --

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MS. MCINTYRE: That is the easy one.

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THE COMMISSIONER: It doesn't matter,

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but --

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MS. MCINTYRE: I have the Public  
Inquiries Act here, sir.

7

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THE COMMISSIONER: it is relevant  
to his interest, isn't it?

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MS. MCINTYRE: "A commission shall  
accord to any person who satisfies  
it that it has a substantial direct  
interest in the subject matter of  
its inquiry, an opportunity during  
the inquiry to give evidence and to  
call and examine or to cross-examine  
a witness personally or by his  
counsel on evidence relevant to his  
interest."

18

THE COMMISSIONER: Yes. All right.

19

20

Then tell me what way is her evidence, what is her  
evidence, first of all, and how is it relevant to  
your interest?

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MS. MCINTYRE: Her evidence has been  
heard here, sir, about situations occurring amongst  
the nursing staff on Wards 4A/B, which have been

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characterized as suspicious or improper and, therefore, confirmatory of wrongful conduct. Examples are, first of all, the dispute between Susan Nelles and Phyllis Trayner about whether a Code 23 or 25 should have been called on Dawson.

Secondly, the dispute between Nelles and Trayner about which kind of pacemaker was required for the Hines baby.

Third, the administration of medication by Trayner to Baby Miller, in which case it was signed off by Susan Nelles and not by Trayner.

Fourthly, the fact that Phyllis Trayner drew out gentamicin in a syringe, prior to having it checked by Susan Nelles in the Miller case.

Fifth, the fact that Bertha Bell placed no particular significance on seeing Phyllis Trayner administering an IV medication to Miller.

THE COMMISSIONER: I am sorry, what is that? She placed no significance on it?

MS. MCINTYRE: Yes.

THE COMMISSIONER: I am sorry, how does that affect me one way or the other that she placed no significance?

MS. MCINTYRE: There was a great deal made, sir, in the evidence to the fact that she





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2 did not place significance on it at the time, therefore,  
3 the evidence didn't come out at the preliminary  
4 inquiry, et cetera.

5 THE COMMISSIONER: Is your witness  
6 going to say she should have placed significance on it?

7 MS. MCINTYRE: Perhaps, sir, if you  
8 would allow me to proceed.

9 THE COMMISSIONER: Yes, all right. I  
10 am sorry.

11 MS. MCINTYRE: Sixth. That nurses  
12 predraw medications in anticipation for arrests.

13 Seventh. That a team leader would  
14 perform certain procedures for a baby assigned to a  
15 team member and the last example, there is evidence  
16 with respect of the role of nurses in questioning the  
17 cause of death of patients under their care.

18 There was a great deal of questioning  
19 of nurses on these issues and an attempt by counsel  
20 to characterize the reactions of nurses, presumably  
21 relevant to the issues before you.

22 The primary purpose of calling  
23 Dr. McGee would be to review these and other examples  
24 of nursing practices to establish that rather than  
25 being suspicious they are consistent with perfectly  
normal nursing practice.





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2 One of the difficulties, in assessing  
3 this evidence, will be the imposition of non-nursing  
4 expectations on the way in which nurses function. So  
5 our submission will be helpful to this Commission to  
6 have the benefit and the testimony of a nursing  
7 expert on these matters.

8

9 Now, with respect to whether or not  
10 this evidence is relevant to our interest --

11

12 THE COMMISSIONER: Yes.

13

14 MS. MCINTYRE: -- we would submit  
15 that these issues are relevant to our interest and  
16 to those of our clients, both individual and the  
17 Association, because normal nursing practice and  
18 behaviour has been characterized before this  
19 Commission and before the public through the media  
20 as being suspicious or improper. It is essential  
21 to the interest of our clients that we call this  
22 evidence.

23

24 THE COMMISSIONER: Remember, it is  
25 your interest and the Inquiry?

26

27 MS. MCINTYRE: Yes.

28

29 THE COMMISSIONER: How is it your  
30 interest and the Inquiry? If you want to call all  
31 of these actions are perfectly normal actions --

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33 MS. MCINTYRE: Yes.

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THE COMMISSIONER: That I gather?

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MS. MCINTYRE: Yes.

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THE COMMISSIONER: Somebody has characterized them as something else and I don't say that I agree with any of that, because a lot of the things that have been done here I won't have an awful lot of difficulty with in characterizing them as perfectly innocent. Some of them may be slightly more, but why is it of importance to you to establish their innocence and not indicative of something more sinister?

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MS. MCINTYRE: Well, sir, we feel it

is in our interest to take a particular point of view on what the evidence reflects, as to whether it reflects something innocent or otherwise. As presumably, all counsel before this Commission will be making argument to you on that matter and, therefore, it is in our interest.

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Secondly, it is in our interest in that the actions of nurses, including our clients, have been characterized or attempts have been made to characterize those as improper or suspicious and in that sense we have an interest in establishing that they are not.

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THE COMMISSIONER: You see, the





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2       thing that I find difficult about all of this is  
3       that none of these reflect upon your client, as far  
4       as your clients' -- as far as I know. They may  
5       conceivably reflect upon the members of the team.

6       Isn't that right? Do they reflect upon your clients?

7                    MS. MCINTYRE: They reflect on our  
8       clients. I gave you one example involving Bertha Bell  
9       that does certainly reflect on Bertha Bell.

10                  THE COMMISSIONER: That was one I  
11       had the greatest trouble with.

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10may84 2 THE COMMISSIONER: That is the one  
JMH 3 I have the greatest trouble with. How does it  
JMRG 4 reflect upon Bertha Bell? I didn't notice that any-  
5 body suggested that Bertha Bell should have been  
6 suspicious seeing, if she did, Phyllis Trayner with  
7 the syringe at Allana Miller's bedside.

8 MS. McINTYRE: Sir, with respect, I  
9 had thought from reading the transcripts that there  
10 was a great deal made of the fact that she did not  
11 put enough significance on that that she witnessed.

12 THE COMMISSIONER: That would be  
13 Phase II that you are now talking about; this is  
14 to tell the police about it?

15 MS. McINTYRE: Or to give the evidence  
16 at the preliminary inquiry, et cetera.

17 THE COMMISSIONER: No, I am not  
18 enquiring into whether Bertha Bell did or did not  
19 do the right thing. What I am enquiring into now  
20 at this point in Phase I is the cause of death of the  
21 children.

22 MS. McINTYRE: That's right. Presumably  
23 you are taking into consideration, sir, the fact that  
24 these various conflicts and various other things I  
25 have referred to took place. Argument is going to be  
made to you, sir, that there is something suspicious





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HH2 2 or improper about that.

3 THE COMMISSIONER: What is improper  
4 about Bertha Bell seeing this and not telling anyone  
5 at the time or being concerned? Even if she did,  
6 what she did or didn't do has nothing to do with  
7 the cause of death.

8 MS. McINTYRE: Hopefully not.

9 THE COMMISSIONER: What she saw or  
10 didn't see may have something to do with the cause of  
11 death. Her failure to report it has nothing to do  
12 with the cause of death but it might conceivably have  
13 something to do with Phase II, if we ever get around  
14 to Phase II.

15 MS. McINTYRE: One would wonder why  
16 it came up each time, why so much time was spent by  
17 counsel on the issue.

18 THE COMMISSIONER: I am with you  
19 entirely. I often have wondered throughout this  
20 whole proceeding how much time was spent by counsel  
21 on a lot of these matters. However, I had better stop  
22 before I get into trouble.

23 MS. McINTYRE: Sir, the evidence is  
24 relevant to me and if we do not have an interest in --

25 THE COMMISSIONER: What is your  
26 witness going to say? Your witness is going to say





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HH3 2 there is nothing strange about her seeing this and  
3 not telling anyone at the time? Is that what she is  
4 going to say?

5 MS. McINTYRE: Well, let's talk about  
6 another example.

7 THE COMMISSIONER: All right.

8 MS. McINTYRE: Which is, for example,  
9 the signing-off of the medication.

10 THE COMMISSIONER: By one over another?

11 MS. McINTYRE: Yes.

12 THE COMMISSIONER: I asked all of  
13 her superiors whether this was proper or not.

14 MS. McINTYRE: Yes. So, presumably,  
15 it is relevant evidence then. Sir, we have not heard  
16 from the Director of Nursing a the Hospital or any  
17 of what I would call the senior nurses, and this woman  
18 who we propose to call is the Dean of Nursing --

19 THE COMMISSIONER: Is she is going to  
20 tell me that it is proper for one nurse to sign for  
21 another nurse to administer it?

22 MS. McINTYRE: I hope she isn't -- she  
23 is going to be able to put it in context for you, sir,  
24 what significance or weight you should attach to that  
25 fact.

26 THE COMMISSIONER: There is absolutely





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2 no evidence, there is no evidence against the proposi-  
3 tion, first of all, that one o'clock dose that Allana  
4 Miller was administered by Mrs. Trayner and was signed  
5 off by Susan Nelles. I may not think much of that  
6 procedure but that really has nothing to do with the  
7 cause of death, does it? The reason I was questioning  
8 it was that I was in some doubt as to whether it  
9 really happened, but now there is no evidence whatso-  
10 ever that it didn't - both Susan Nelles and Phyllis  
11 Trayner say it took place. So, there is no  
12 conceivable way I could suggest it didn't.  
13

14 MS. MCINTYRE: Well, certainly it did  
15 happen. The question is what significance should be  
16 placed on that.

17 THE COMMISSIONER: What significance  
18 can I put on it except for the fact it is kind of  
19 sloppy usage? Is there anything else?

20 MS. MCINTYRE: I gathered from other  
21 counsel that they were characterizing that as being  
22 somewhat suspicious. May I add, with respect --

23 THE COMMISSIONER: What are they  
24 characterizing the fact that it happened or character-  
25 izing the fact that it really didn't happen?

26 MS. MCINTYRE: No, no, the fact that  
27 it happened. There is no question that it did happen.

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THE COMMISSIONER: All right. What I

am getting at, Miss McIntyre, I don't want to spend a week, as we might well, with this nurse if she comes in here concerned about matters that I can't report on, that I can't do anything about. If she is going to come -- she can't tell us anything about the cause of death at all. All she can tell us about is something about nursing practice and you will try to link those somehow with the nursing image or something of that nature.

MS. MCINTYRE: Sir, you have been hearing a great deal of evidence over the last five months with respect to nursing practice and various counsel have been trying to characterize it in various ways.

THE COMMISSIONER: Will that help us discover what really took place? That was the purpose of it.

MS. MCINTYRE: Well, sir, if the conduct in question isn't going to help you discover what took place, again I would ask why counsel spent so much time on the discussion between Phyllis Trayner and Susan Nelles as to whether it should be --

THE COMMISSIONER: Just a moment, Miss McIntyre. Mr. Roland, are you going to oppose





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HH6 2 this or not?

3 MR. ROLAND: Well, I am, yes, Mr.  
4 Commissioner, on a number of points.

5 First, really, this is a question of  
6 proper nursing practice, and proper nursing practice  
7 is really not --

8 THE COMMISSIONER: I agree with you  
9 on that. I just wanted --

10 MR. ROLAND: On Miss McIntyre's point,  
11 on every one of her points - and I'm not sure that  
12 I got them all, but at least on the first four or five  
13 she is dealing with issues that occurred between  
14 Susan Nelles and Phyllis Trayner. She doesn't have  
15 to deal with that. It seems to me she is way beyond  
16 the mandate that she has for acting for the people  
17 that she does. In dealing with some disputes or  
events that occurred between those two, we have heard  
from both of them.

18 THE COMMISSIONER: Yes.

19 MR. ROLAND: They have given us by  
20 and large a consistent account of what went on with  
21 respect to those disputes. They were characterized  
22 earlier on as disputes but there doesn't seem to be  
much dispute today about what went on.

23 THE COMMISSIONER: I have the same

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HH7 2 concern that you have with respect to this. What I  
3 am really worried about is, are you going to find any  
4 need to answer it?

5

MR. ROLAND: Well, I may very well  
6 because Miss McIntyre has announced this woman is  
7 going to be asked a number of other questions, I  
think, from what she has told you today.

8

THE COMMISSIONER: You haven't got  
9 to that yet, I take it?

10

MS. McINTYRE: No.

11

MR. ROLAND: There are some other  
12 topics.

13

MS. McINTYRE: I didn't have a chance.

14

MR. ROLAND: Once the witness is  
in the stand, it is sort of free go.

15

THE COMMISSIONER: As usual, I am  
16 trying to -- I think I have got to, if I can just  
17 get a promise from Mr. Roland that he wouldn't cross-  
18 examine, things might be different, but he won't give  
19 me that promise.

20

Go on now. What else is she going  
21 to --

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MS. McINTYRE: Before I go on, sir,  
I think that counsel for Phyllis Trayner and Susan  
23 Nelles support the calling of this witness on this  
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HH8 2 issue.

3 MR. BROWN: I have spoken to Miss  
4 McIntyre just now dealing with the areas - there are  
5 some areas to which I have certainly no objection and,  
6 indeed, would support Miss McIntyre. But, in fairness,  
7 I think those are more general. For example, she  
8 discussed the pre-drawing of medication and, as a  
9 general practice, that might be useful to have some  
10 expert opinion on the frequency and the propriety  
11 of that. As well, a team leader performing certain  
12 functions for a baby who was assigned to care by  
another nurse.

13 In respect to the other detailed  
14 matters, we are in sort of a difficult position. Most  
15 of those have been dealt with extensively on cross-  
16 examination and I don't know whether general evidence  
from an expert would be of assistance.

17 THE COMMISSIONER: The problem is this,  
18 Mr. Brown, that I can dismiss Miss McIntyre's applica-  
19 tion on the simple ground that it is not in her  
20 interest. It becomes a different problem if you and  
21 counsel for Phyllis Trayner then decide you are  
22 supporting bringing this application, because it may  
23 well be in your interest, whereas it is not in her  
interest. This is the problem.

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HH9 2 MR. BROWN: It is my understanding  
3 that Dr. McGee will be giving evidence on certain  
4 general nursing practices.

5

THE COMMISSIONER: Yes.

6 MR. BROWN: To that extent, I would  
7 support the application because I think it will  
8 affect nurses in general. I candidly do have some  
9 difficulty with respect to a few of the particular  
10 ones, the Code 23 and Code 25 dispute - I don't see  
11 any assistance. I felt that was dealt with in cross-  
12 examination. The signing by Miss Nelles of the  
13 gentamicin for Allana Miller. Miss Nelles candidly  
14 admitted that was a mistake, and in my mind that is  
15 the end of it. Miss Nelles gave her observations  
16 to checking the gentamicin, and I don't think that  
affects us really. And the others, I don't think  
really affect us.

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18 As I say, there are two issues on  
19 which I would certainly lend my support in terms of  
20 general practices.

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THE COMMISSIONER: And which are those?

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23 MR. BROWN: The pre-drawing of  
24 medication prior to an arrest - although, again, there  
25 is no evidence that Miss Nelles did it.

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27 THE COMMISSIONER: What else do you

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HH10 2 support?

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MR. BROWN: The team leader performing certain functions in respect of a baby assigned to another nurse.

THE COMMISSIONER: I thought we had that ad nauseum.

MR. BROWN: Again, that is sort of a general matter and I would support that.

THE COMMISSIONER: Why do you support it? I think we have had enough of it already. Is there more? What more would you -- if you were left to your own devices, would you call a witness on any of these issues?

MR. BROWN: If I were left to my own devices, we do not intend to call any witness in respect of anything done by Miss Nelles.

THE COMMISSIONER: Yes. All right.

MR. BROWN: Now, my friend, I think, has submissions on two other matters, two other areas, but perhaps I anticipate her.

THE COMMISSIONER: Yes. Who is your friend? Is that Miss McIntyre?

MR. BROWN: It is my friend, Miss McIntyre.

THE COMMISSIONER: I'm sorry, I am not





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HH11 2 suggesting that the others are not your friends, but  
3 it is just a general term that can lead to confusion.

4 MR. BROWN: I think that is a different  
5 matter that really doesn't affect us. I don't have  
6 any submissions.

7 THE COMMISSIONER: Yes. All right.

8 Miss Rae, can I ask you about matters  
9 that Miss McIntyre has referred to so far. Are you  
10 supporting any or all of them?

11 MS. RAE: I would be prepared to  
12 support all of them purely from the point of view that  
13 I agree with her that there has been a sort of  
14 flavour given to some of the actions that have been  
15 described suggesting something untoward or inappropriate.  
16 The only reason we would suggest that you should hear  
17 this would be that it may be of assistance to you,  
18 Mr. Commissioner, in assessing that evidence in the  
19 context of evidence of good nursing practices.

20 THE COMMISSIONER: Left to your own  
21 devices, would you call it?

22 MS. RAE: No.

23 THE COMMISSIONER: Yes. All right.  
24 Would you go on with the rest of it?

25 MS. MCINTYRE: Yes, sir. The second  
area that we wish to call this witness on is with





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HH12 2 respect to medication errors. There has been  
3 considerable evidence to date on medication errors,  
4 and one possible cause of death with respect to  
5 some of the children is medication errors.

6 THE COMMISSIONER: The cause of death,  
7 how is it in your interest, because all it would do,  
8 if you are going to establish that there are medication  
9 errors, it will reflect, as I would see, upon your  
clients without helping.

10 MS. MCINTYRE: Okay, sir, I was going  
11 to deal with that.

12 THE COMMISSIONER: All right. Thank  
13 you.

14 MS. MCINTYRE: While I say there is  
15 a possibility, it is probably with respect to four  
16 of the 28 that we are talking, the possibility of  
17 four medication errors in thousands of medications that  
are given.

18 THE COMMISSIONER: Remember your  
19 clients where no one is under suspicion now; none of  
your clients ever were.

20 MS. MCINTYRE: That is very true, sir.  
21 We certainly do not want to suggest that nurses  
22 generally, or any of those we represent, are responsible  
23 for any medication errors. However, the possibility

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HH13 2 has been raised and we propose to call Dr. McGee  
3 to give --

4 THE COMMISSIONER: What will she  
5 prove? She will prove there are many errors? Is that  
6 it?

7 MS. McINTYRE: She, herself, has  
8 done primary research in the area of medication  
9 errors identifying the source of such errors as well  
10 as she can give evidence on how errors can be  
11 prevented.

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THE COMMISSIONER: All right, that's fine. Why is that in your interest?

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MS. McINTYRE: Because we wish to establish, Sir, that medication errors to the extent that they take place are not the fault of nurses but are a systemic problem, and that certainly is in our interest.

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THE COMMISSIONER: You mean it is in your interest --

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MS. McINTYRE: To establish that medication errors to the extent they occur is not the fault of nurses but is a systemic problem.

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THE COMMISSIONER: Well, you realize of course that I can't say, no matter who was responsible for it, I can't determine that.

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MS. McINTYRE: Well, that sir is a matter of argument I think.

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THE COMMISSIONER: Well, it is a matter of argument but you lost.

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MR. YOUNG: Ms. McIntyre won, that's right.

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THE COMMISSIONER: Ms. McIntyre won yes, that's right.

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MS. McINTYRE: I'm sorry, sir, I didn't realize that you were referring to the naming of name

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2 issue.

3 THE COMMISSIONER: Well, that's the  
4 only thing. You say it's not the fault of nurses.  
5 If I can't name an individual nurse, I can't name all  
6 of the nurses, can I?

7 MS. MCINTYRE: Well surely, sir, that  
8 if you are dealing in the area of recommendations,  
9 for example, that problems in a system giving rise  
10 to medication errors is something of interest  
11 to you and it is certainly in our interest, since  
12 a spectre of medication errors has been raised to  
13 deflect any responsibility away from the nurses on  
14 that issue.

15 THE COMMISSIONER: But I'm not allowed  
16 to deal with it, I am not allowed to deal with it,  
17 all right, okay. Next thing that you would like to  
18 say?

19 MS. MCINTYRE: The third area is the  
20 area that I think is our least convincing argument.  
21 I should have put that in the middle shouldn't I?

22 THE COMMISSIONER: Is this the one  
23 that drives Mr. Roland up the wall, is that it.

24 MR. ROLAND: I'm delighted at the  
25 introduction to the argument.

26 MS. MCINTYRE: I'm not sure if it drives

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2 him up the wall. Perhaps it does.

3 MR. LAMEK: I will watch.

4 MS. CRONK: Do you care?

5 MS. McINTYRE: Dr. McGee is an expert  
6 in a concept referred to as Quality Assurance  
7 Program, a system to monitor patient care in a Hospital  
8 setting. She can offer valuable insight into  
9 institutional mechanisms which would be more responsive  
10 to this series of baby deaths occurring on Wards 4A  
and 4B.

11 Sir, this would be relevant not to the  
12 issue of determining cause of death. However, it may  
13 be relevant in the area of making recommendations.  
14 That, sir, as you acknowledged yesterday, is part of  
your mandate.

15 You also referred to the Dubin Report  
16 and suggested that that in your view probably pretty  
17 well covered the area of recommendations. However,  
18 while the Dubin Report does mention quality assurance  
19 in its recommendations, specifically number 42, it is  
with reference to nursing care only.

20 In fact, quality assurance programs is  
21 institutional wide and in some respects --

22 THE COMMISSIONER: Do you know what an  
23 enormous issue this would be. I have to be reasonable

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2 at this point.

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4 MS. McINTYRE: I appreciate your  
concern.

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THE COMMISSIONER: The only thing

I am really concerned with, and I am going to have a terrible fight with Mr. Labow about this, but the only thing I am really concerned with is, was there or was there not a massive overdose of digoxin in any one or all of the 36 babies we are inquiring about?

Mr. Justice Dubin has spent a great deal of time and produce a ~~magnificent~~ report on the questions of how we deal with this sort of thing, how we stop it from occurring. He went into it and he had four able assistants and they produced, and as far as I can make out, all of those recommendations were accepted and are put in, and you are asking me to go over this ground again and open it up.

MS. McINTYRE: I appreciate the problem, sir.

THE COMMISSIONER: Mr. Roland brings down 412 experts to say this isn't the thing to do and I listen to it all and I really don't intend to do anything about it.

MS. McINTYRE: Well, I suspect Mr. Roland wouldn't do that in fact in that I think the Hospital

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2 has undertaken such a program already.

3 THE COMMISSIONER: Do you mean to say  
4 it is already done, is it?

5 MS. MCINTYRE: Well, I'm not sure  
6 actually, not being counsel to the Hospital, but it  
7 is being considered I think.

8 MR. ROLAND: Ms. McIntyre shows that  
9 the illadvisedness of even getting into this issue  
10 because if we are talking about historic events,  
11 events that occurred three years ago and that is what  
12 you are to inquire into and the Hospital as a result  
13 of the Dubin Report and other things has gone on,  
14 life has continued and it is administering its  
15 institution in the best way it can and it has made  
16 decisions about that for a whole host of reasons  
17 the way it operates.

18 If we get into this kind of discussion  
19 through some witness we are going to have to go back  
20 into the whole adminstration of the Hospital, not  
21 just because she wants it for recommendations, not just  
22 back then, but how it is administered today. All that  
23 has nothing to do, with great respect to your mandate.

24 MS. MCINTYRE: Well, I appreciate that  
25 concern, Sir, and I realize that you wish to end this  
process sooner rather than later. I think we can





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2 understand if you don't want to get into the issue.

3 However, I think that is not as  
4 complicated as Mr. Roland suggests and I think certainly  
5 the public would appreciate any recommendations  
6 you could make to prevent this sort of thing, whatever  
it was, occurring in the future.

7

THE COMMISSIONER: Yes, all right,  
8 thank you.

9 Mr. Lamek, do you want to say anything?  
10 Well, first of all, Mr. Roland, you have been up  
11 and down several times is there anything more that  
12 you want to say?

13

MR. ROLAND: Well, with respect to the  
quality assistance program --

14

MS. MCINTYRE: Quality assurance program.

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MR. ROLAND: The quality assurance  
program, I don't think I could say much more except  
that it is not less complicated, I think it is  
probably much more complicated than I had indicated.

16

With respect to the medication errors,  
17 as you have pointed out, sir, your mandate is to  
determine how these babies died. Now, Ms. McIntyre  
18 has told us that she is going to direct the evidence  
to four particular babies but this witness as I  
19 understand it, wasn't at the Hospital at the time and

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2 probably --

3 MS. MCINTYRE: No, I didn't say that.

4 If I did say it I didn't intend to say it.

5 MR. ROLAND: Well, you indicated, what  
6 Ms. McIntyre indicated was that medication error was  
7 a possible cause of death she thought with respect  
8 to four particular babies, that's what I got in my-  
notes.

9 MS. MCINTYRE: That's correct, but I  
10 didn't say I was intending to direct the evidence of  
11 this witness towards those four babies.

12 THE COMMISSIONER: No, I understood  
13 you to say the witness was going to show it was  
systemic and not the fault of the nurses.

14 MS. MCINTYRE: Yes.

15 MR. ROLAND: Well, that makes my  
16 point. I mean, if the witness is going to direct  
17 herself to the four particular babies and try and  
18 interpret the evidence in some fashion that would  
19 be able to make an argument or convince you that  
20 error rather than some deliberate overdose was the  
cause of death, or the process of which those  
21 particular four babies received digoxin then it might  
22 be of some use. But to talk about it in the abstract  
23 as something that is systemic rather than the cause

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2 of nurses(1) it is not helpful to you at all in deciding  
3 how those four babies or, indeed, how the 36 babies  
4 died because you have to look at each particular  
5 baby and the evidence that you have with respect to  
each particular baby.

6

7 You already have before you, thanks  
8 to a large extent to the evidence I lead through  
9 Dr. Spielberg, that there is systematically errors in  
these institutions. That evidence isn't something  
10 that will come new to you and that is a sort of  
gloss on errors. You already have that gloss.  
11 What your function is is to look at, with great respect,  
12 each particular infant and determine with respect to  
13 each particular infant if there is a real possibility  
14 of error in any one of those cases.

15

16 Now, this witness can't help you or  
assistant you with respect to any of that. You already  
17 have the gloss about the errors that occur regularly  
18 in Hospitals. The studies have been put in, the  
19 Americans studies have been put in, they seem to be  
accepted as a gloss by everybody here. This witness  
20 will not advance the evidence one bit.

21

22 I am not particularly troubled about  
her giving that kind of evidence but it is not going  
23 to advance the work of this Commission one small step

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2 in deciding how any one of these particular babies  
3 came to their deaths.

4 The other two areas that Ms McIntyre  
5 puts into her first category are two subject matters;  
6 nurses predrawing medications prior to arrests and  
7 whether that is something that is suspicious or,  
8 alternatively, whether that is something that is done  
9 as a regular routine or something that is not in  
10 the category of being suspicious. We have some  
11 evidence with respect to that, some nursing witnesses  
12 that that was done before or in anticipation of some  
arrests of some of the babies.

13 The questioning of that I must say  
14 raised the doubt, not the answers but the questions  
15 that there may be some suspicion about that. The  
16 evidence that we have had, if you review the evidence  
17 is that there is nothing suspicious. No one has  
18 suggesting that that in evidence, anybody that has  
19 come here as a medical witness has suggested that  
that is suspicious.

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Miss McIntyre I presume intends to call this witness to say it isn't suspicious. She will be rebutting not any evidence that has been put in but some suggestion in a question that has no foundation in the evidence. So, it may be of very marginal importance but I think it not sufficient to call a witness because I say in the record that you have today there is no evidence that that in itself is suspicious.

I wouldn't be advancing any argument that it is suspicious. In fact, I understand from my clients that it isn't suspicious that it occurs from time to time and it may be treated as good nursing practice, but I don't think it has ever really been an issue. It has been raised as a question. No witness has suggested in response to the question that it is suspicious.

The last item that Miss McIntyre deals with in her first category has something to do with team leaders looking after patients of their team members. I don't understand what evidence is going to be led about that. There doesn't seem to be any dispute about the fact that that occurs and breaks and so on and I for the life of me can't understand what again is in dispute in that area. Maybe





II.2.2.

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2 Miss McIntyre could help us on that but I don't  
3 understand what the dispute is there.

4 THE COMMISSIONER: Yes, all right,  
5 thank you. Mr. Lamek, have you anything to say?

6 MR. LAMEK: Very little to add, sir.  
7 Just one thing, I have tried to say this on a number  
8 of occasions in the past. I have heard suggestions  
9 for months now that your report is going to change  
10 the face of nursing and nursing practices throughout  
11 this province. That has always come to me as something  
12 of a surprise, as no doubt it has to you, sir. I  
13 don't understand this Commission to be concerned  
14 with general nursing matters, with the nursing  
15 profession in general, or with nursing practices in  
16 any general way.

17 To the extent that anything that Dr. McGee  
18 has to say might bear upon those matters, I really  
19 don't see that they will be of assistance to you, sir,  
20 in the matters that you have to consider.

21 So far as the particular matters about  
22 which Dr. McGee will give evidence, I doubt what  
23 Mr. Roland has said about particular matters as far  
24 as those involving Miss Nelles and Mrs. Traynor are  
25 concerned, we have heard from them, and importantly  
we have heard today from their Counsel and neither of





II.2.3

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2 them, as I understand it, would call Dr. McGee or  
3 anyone comparable to Dr. McGee to give such evidence,  
4 so, there is some suggestion as to the value that  
5 they place upon the kind of thing that is suggested.

6 So far as drug errors are concerned  
7 I can say only two things. One, the question is  
8 not whether the drug errors are systemic or if they occurred  
9 at whose hands they occurred. I have no doubt that no  
10 drug error be systemic, every now and again one of  
11 them occurs through the damn foolishness of an  
12 individual and that's not a systemic device.

13 The question is, did any one of these  
14 children, or more of them, die as a result of drug  
15 error and as to that, with the greatest of respect,  
16 no one who comes to us talking about drug errors in  
17 general can be of any assistance to you.

18 The quality control, I adopt what  
19 Mr. Roland has said. I confess, I don't see the  
20 utility to you of the evidence she purposes.

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2 THE COMMISSIONER: Before I come  
3 back to Miss McIntyre, does anybody else have any  
4 contributions to make to this argument?

JJ/ RD/LN

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5 MR. TOBIAS: I am just packing up by  
6 briefcase.

6

7 THE COMMISSIONER: All right. All  
8 right Miss McIntyre.

9

10 MS. MCINTYRE: Yes, sir. With respect  
11 to Mr. Roland's comments I understand on the  
12 medication error that he is essentially saying why  
13 should we call the evidence when he has already called  
14 the evidence.

15

16 THE COMMISSIONER: The thing that  
17 concerns me is that the medication errors, the evidence  
18 that Dr. McGee is going to give is that it is  
19 not the fault of the nurses, is that right?

20

21 MS. MCINTYRE: No, that is the  
22 reason why it is relevant to our interest. Her evidence  
23 can help you with respect to the possibility of  
24 medication errors. Of course, there is no evidence  
25 as to whether or not there was a medication error.

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27 THE COMMISSIONER: We have masses  
28 evidence on that.

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30 MS. MCINTYRE: Pardon?

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32 THE COMMISSIONER: We have masses

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JJ2

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2 of evidence on medical errors.

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4 MS. MCINTYRE: The possibility of  
5 medication errors is clearly relevant then, because --

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7 THE COMMISSIONER: We have had it.

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9 Why do we want anymore? Why do we want anymore?  
10 Here we have had the percentages and all kinds of  
11 charts on this sort of thing and articles on them.  
12 We have had people stating. We have had all of this  
13 and you want some more to tell us. What I want to  
14 have is have you got some evidence that will help me  
15 in knowing whether or not anyone of these children  
16 died of an accidental overdose of digoxin.

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18 MS. MCINTYRE: Yes and part of that  
19 formula, sir, is the possibility of medication error  
20 and in my submission Dr. McGee can help you on that  
21 because she has done primary research on it and can  
22 contribute from a nursing point of view as to the  
23 possibility of medication error.

24

25 THE COMMISSIONER: Yes, all right.

26

27 Anything else?

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29 MS. MCINTYRE: No, I think that is all  
30 sir.

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32 Oh, there is one other matter. We  
33 had asked that a number of doctors be called and I  
34 understand that after lunch it was announced that

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JJ3

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2 Dr. Jedeikin was going to be called or Dr. Kantak,  
3 I'm sorry. We had also asked that Dr. Ning be called  
4 with respect to Pacsai and Dr. Soulioti be called  
5 with respect to Miller and Dr. Jedeikin be called.  
6 I understand there are still efforts being made to  
7 try to reach Dr. Jedeikin.

8 THE COMMISSIONER: You have heard Mr.  
9 Lamek saying that we weren't going to do it.

10 MS. MCINTYRE: I'm sorry, I wasn't  
11 here, sir. I didn't hear that.

12 THE COMMISSIONER: I guess Ms. Kitely  
13 was here. I guess she is keeping all of this  
14 information to herself. There is going to be a fight  
15 at the next departmental meeting I can see.

16 Well, we are not calling anybody and  
17 I thought that that had been -- certainly I guess you  
18 weren't consulting with Miss McIntyre on this  
19 decision not to call Dr. Jedeikin. If you want them  
20 for some reason you have to tell us why?

21 MS. CRONK: I'm sorry, sir, just to  
22 explain that from our perspective, Miss McIntyre  
23 quite correctly, I suggest to you that a list of  
further requested witnesses was provided by her firm.  
The on going interviews and discussions have involved  
parents counselling to a certain respect in Miss





JJ4

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2       McIntyre's firm. I can tell you, sir, with respect  
3       to most of the doctors, physicians named by her,  
4       their whereabouts are either currently unknown or  
5       have been most difficult to reach. Others we have  
6       contacted for the purposes of        accomodating  
7       parent's counsel. I can tell you further, sir, it  
8       is our position, unless Miss McIntyre can outline  
9       an interest in particular for her clients for calling  
10      these witnesses, it is not our intention to explore it  
11      further.

12                    MS. MCINTYRE: Well, sir, we had  
13      detailed in a letter to Commission Counsel particular  
14      questions that we wanted asked of these witnesses but  
15      perhaps I can take it up further with Miss Cronk. It  
16      was our position that Commission Counsel should call  
17      them and not that we wanted to call them ourselves.

18                    THE COMMISSIONER: You weren't  
19      successful in persuading them, so if you don't want  
20      to call them that is the end of it.

21                    MS. MCINTYRE: Thank you sir.

22                    THE COMMISSIONER: You tried.

23                    MS. MCINTYRE: Thank you.

24                    THE COMMISSIONER: You get full marks  
25      for that. If you don't want to try them yourself  
26      -- the only one we are concerned about is Dr. McGee.





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MS. McINTYRE: Yes, and perhaps I can  
reserve on that question particularly since Dr.  
Kantak is being called.

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THE COMMISSIONER: Yes. I don't  
want to decide this issue tonight, and I don't know  
whether we are going to be here on Monday or not.

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MS. CRONK: I'm sorry, to help you  
with that, Miss Chown has been kind enough to confirm  
that Dr. Kantak will be available on Monday, but I  
should add at this point that he has had very little  
notice of the request that he attend and some very  
extraordinary arrangements have been made in Texas  
to permit his attendance on Monday. He is most  
concerned as are his colleagues, that he be allowed  
to return Monday evening to Texas and under the  
circumstances I have been requested to ask you and  
agree and recommend to you that we start at 9:30 on  
Monday morning to insure that the Doctor is free to  
leave at the end of the day and that there is no risk  
that his evidence will not be completed Monday at the  
end of the day.

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THE COMMISSIONER: I guess I will get  
out the stop watch.

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MS. CRONK: Would it be acceptable

to you, sir, if we started at 9:30 to accommodate the





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2 Doctor?

JJ6

3 THE COMMISSIONER: I will agree with  
4 that if you will agree to be finished with him by  
5 11:00 o'clock. Can you finish him in an hour and  
6 a half? If you can't do that there is no possibility  
7 of asking everybody else.

8

9 MS. CRONK: To be perfectly honest sir,  
10 at this stage I have no idea how long the examination  
11 in chief will be because I haven't had sufficient  
12 time to consider it further.

13

14 THE COMMISSIONER: Then I suggest you  
15 put the important questions at the beginning because  
16 you may not have an opportunity to ask the less  
17 important questions.

18

19 MS. CRONK: I would hate to break with  
20 complete tradition, but I would be glad to try.

21

22 THE COMMISSIONER: Some where around  
23 11:00 o'clock I will be suggesting that you sit down  
24 and let other people have an opportunity so obviously  
25 there is no problem about Monday. I will resolve  
this thing.

26

27 MR. BROWN: I was wondering whether Miss  
28 Cronk would perhaps advise us of the areas Dr. Kantak  
29 is expected to testify.

30

31 THE COMMISSIONER: Can you do that?

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JJ7

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MS. CRONK: For the purpose of examination in chief, the Doctor will be giving evidence with respect to Kevin Pacsai, Kristin Inwood and Justin Cook.

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THE COMMISSIONER: Yes. Now I think that whatever happens with regard to Dr. McGee there aren't obviously very many more witnesses and I am going to suggest to everyone that we have argument on I think it is the 1st Monday in June.

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MR. LAMEK: June 4th.

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THE COMMISSIONER: The 4th.

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MR. LAMEK: Yes.

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THE COMMISSIONER: We will start in the ordinary course with Mr. Lamek and, as I say, go through but I really just want to say this so that you will prepare accordingly. I think it will take probably at least two weeks and we will certainly try to accomodate counsel so that they can be present at the appropriate time and we will go in the same order. It gives you at least two weeks, maybe the better apart of three weeks from now and certainly two weeks from the end of the evidence to prepare.

MR. BROWN: If I might on the record, sir, request that as far as the order of argument there be a slight alteration. We would prefer to





JJ8

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2 follow after Commission Counsel and the Hospital  
3 since a large portion of the argument will be centered  
4 on the medical evidence, as to how and by what means  
5 these children died.

6 It is my submission those two parties  
7 have the resources and perhaps to some extent have  
8 a greater interest in leading evidence with respect  
9 to all of the children.

10 THE COMMISSIONER: You certainly  
11 follow Commission Counsel.

12 MR. BROWN: We would also like to be  
13 put after the Hospital. That might well shorten our  
14 submissions. If we were to go after Commission  
15 Counsel we might be put in a different position,  
16 whereby we would feel it is necessary to review a  
17 host of medical evidence with respect to a large  
18 number of children. If we follow the Hospital I think  
19 I could assure you our submission would be briefer.

20 THE COMMISSIONER: That certainly is  
21 a very enticing argument.

22 MS. RAE: I would like to support  
23 that suggestion and I would also ask if it could  
24 be considered perhaps that the Attorney General  
25 could go before.

26 THE COMMISSIONER: You just wanted  
27 a position. Remember, we go down the line one way





JJ9

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2 and come back up the other way so you get an advantage  
3 one way or the other. Perhaps Mr. Roland, would you  
4 like to come second?

5 MR. ROLAND: The resources sitting  
6 to my left is alarmed at the prospect of having  
7 to go second.

8 THE COMMISSIONER: I see.

9 MR. ROLAND: The resources in this  
10 hearing are the transcripts, the exhibits and the  
11 people that are there to assist you in preparing  
12 the evidence but I don't see any particular problem.  
13 I think we could go second if everybody wants us to  
14 do that.

15 THE COMMISSIONER: You would come back  
16 and be second last on --

17 MR. ROLAND: We have no problem with  
18 that. The one thing that I think that should be  
19 addressed or considered is having some, at least  
20 a short period of time, to digest and assimilate  
21 Commission Counsel's submissions and if we went sort  
22 of immediately the next minute or day following it  
23 may be somewhat difficult because there may be  
24 many things that we want to consider and agree with  
25 and others we will want to take exception with.  
26 We just don't know.





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2 I presume written argument will be  
3 in the form of a transcript.

JJ10

4 THE COMMISSIONER: Yes. I have asked  
5 that the parents, not to write me a book but just  
6 sort of a summary of their position with respect to  
7 each child, which would be available to me and  
8 will be available to everybody else, because that is  
9 something that we can constantly refer to. It doesn't  
10 prevent them from arguing the question. Written  
11 argument you can supply or not as you like. Some  
Counsel want to have it and ~~some~~ don't.

12 It is essential, at least I found, and  
13 I don't want to be disrespectful to a lot of old  
14 dead Judges, but you have to have oral argument in order  
15 to find out which way he is thinking and deal with it.  
16 Therefore written argument just isn't good enough for  
something like this.

17 If you want to supplement your argument  
18 with written argument that is fine. There is nothing  
19 wrong with that and I would be delighted to have it.  
20 We will also have the transcript as well.

21 MR. ROLAND: That is right.

22 The transcript is what I was referring to with the  
23 great advantage we have in having the argument  
24 reduced to writing very quickly. But I think

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JJ11

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2 especially if we are going to go second and we  
3 have no difficulty with that, we would like some time,  
4 a couple of days perhaps, at least to assimilate  
5 Commission Counsel's argument and more effectively  
6 respond to it, because I think it will effect, to a  
7 very large extent, the approach we take in our argument.  
8 I don't say particularly a lot of time, but it may  
9 be a day or two would be very useful there. I don't  
10 know how long Commission Counsel will be, but I  
suspect many days.

11 THE COMMISSIONER: I suspect he will  
12 be a while -- they will be awhile, because all  
13 Counsel on the team can argue, as long as it will  
14 be kind enough to divide the territory. I don't want  
them all arguing the same point.

15 MR. ROLAND: It may be ~~at the end of~~  
16 Commission Counsel's argument that we can say that  
17 we agree with everything and disagree with nothing  
18 and be very short. I suspect that that won't be.

19 THE COMMISSIONER: Won't be so.

20 MR. ROLAND: Won't be so.

21 THE COMMISSIONER: There you are.  
22 There is a warning for you. At any rate all I am  
23 really doing at the moment is telling you that is  
when we start. Those will be some of the rules.

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2 We will refine them a great deal more as we go along.

3 MS. KITELY: Before we quit for the  
4 day -- we have changed the guard a lot today. We  
5 have Dr. McGee standing by. She is from Ottawa and  
6 we can't get her here at a moments' notice. I  
7 appreciate you don't want to have any lapses between  
8 witnesses --

9 THE COMMISSIONER: Obviously I wonder  
10 if you could ask her, say that she will or will not  
11 be called. Tuesday is available and we have nothing  
12 else for Tuesday. Ask her if she will --

13 MS. KITELY: She is available on  
14 Tuesday, sir. I can tell you that now.

15 THE COMMISSIONER: All right. Would you  
16 keep her available on Tuesday. I am going to look at this  
17 transcript and I am going to consider the matter and  
18 I'm going to probably -- I don't want to be held  
19 to this, but probably allow her to come and allow you  
20 or whoever is going to examine her, to ask things,  
21 but there is going to be some rules and there are  
22 going to be some subjects that she won't deal with.  
23 I will try and let you know on Monday what those  
24 rules will be so you can prepare accordingly.

25 I assume that you have prepared her  
on all of these matters already, have you not?

MS. KITELY: Virtually yes.





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3 THE COMMISSIONER: So that it won't  
4 hurt, all you have to do is have a blue pencil to  
5 strike out some of them.

6 MS. KITELY: Unless you want to add  
7 something to the list.

8 THE COMMISSIONER: I won't think up  
9 anything else.

10 MS. KITELY: Well, it is true we do  
11 have an assortment of matters but we do need a little  
12 lead time to have her.

13 THE COMMISSIONER: Get her into a  
14 hotel room for Monday night and I will try and tell  
15 you by Monday afternoon exactly what I am going to  
16 permit, I may well by that time say there are some  
17 aspects that you may have trouble with when the  
18 question is raised.

19 MS. KITELY: All right. Thank you,  
20 sir.

21 THE COMMISSIONER: All right. Any-  
22 thing else? I think we had better go while we still  
23 can. Until 9:30 then on Monday morning in Courtroom  
24 No. 1 on the 21st floor.

25 --- whereupon the hearing was adjourned at 5:05 p.m.  
26 until Monday, the 14th day of May 1984, at 9:30 a.m.  
27 in Courtroom No. 1, 21st floor, 180 Dundas Street  
28 West.





